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POLITICAL SCIENCE QUARTERLY.

FRIENDSHIP AND POLITICS.

WHEN the suburban missionary society was engaged in the manufacture of school bags for the little Zulu children, it was only expressing in a picturesque way an almost universal attitude of mind. My needs are your needs, my methods must be your methods. The European railroad running over the Chinese royal graves is not so much an outrage as it is a dramatic instance of a general point of view.

When a religious tract is proffered a Bowery "bum," we are perhaps far enough advanced to smile; but a solemn complacent hopefulness pervades our spirits when we circulate through the tenements reform political literature, and we feel that we have exercised much subtlety by printing the pamphlets in five different languages. The fluent talk of the sociologist, the ceaseless repetitions of the informed social pedagogue, the annual reports of the societies that deal with our city majorities at first hand — all affect us little or not at all. But while we are failing both to understand and to interpret, there are others who, understanding, do not interpret. Why should they? Is it their place to inform the ignorant? And for that matter it can hardly occur to those who do understand, that the polished, the cultivated, the reformed and the reforming classes still walk in darkness.

Broadly speaking there are two methods of social education: one is the impress from above, working for conformity to a rigid, inelastic standard; the other is an inductive process —

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of understanding and interpreting and then acting. The latter method we have begun to apply seriously in most branches of learning and of life. We are, however, only on the threshold of its application to politics; and not until we do apply this method shall we know what path to take to lead us toward the goal of social righteousness. We shall have set out on the right track when we learn something of the actual underlying mechanism of city politics, when we recognize the primal factors in the civic dishonor that sits enthroned in more than one of our great American cities.

In last analysis our municipal politics has its source in the "job" — that necessary centre around which life turns for the great majority, and especially for those who live on the margin. Somewhere the job dispenser meets the job seeker. The former is receiving a great deal of contemporary attention. He would be nobody if he did not meet the latter. It is the latter that makes the former possible. What is he? Where does he come from? Is he a stationary or a changing factor?

The job seeker is born in a tenement house. He is a product of the conditions of education and industry that flourish there. In New York (and it is of New York alone that I can speak at first hand) he has grown up in a steadily deteriorating environment. The evolution of the tenement house through all its six painful stages to the crowning evil of the dumb-bell double-decker has produced its stunting effects. More and more has industry infested the tenement house until the home has too frequently become the shop. Where the woman has had to help the man with his work, the child has been left to its own resources. The job has its menacing and sinister aspects in many tenement-house quarters. The spread of immorality through tenement houses, caused by crusades against vice and by the immunity from the payment of protection money to the police, has had its saddest and most revolting effects in the corruption of children. These children, also anxious for a job, increase the family income by being the instruments and agents of vice. The early acquaintance with infamy gradually stunts all the finer feelings. The prostitutes who give out their

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washing to one tenant and their scrubbing to another, who pay the children for running errands, cannot be regarded by their neighbors as an unmixed evil. On the economic margin the good payer, no matter what else she may be, takes on almost a virtuous character by force of economic utility.

At the age of fourteen the tenement-house child becomes a breadwinner. In those brief fourteen years he has learned the lessons that remain the most permanent influence of his life. The facts of his life have a sequence of meaning and importance that are strange indeed to children who have been brought up in comfort. To the child of the tenement the great facts that shine out most prominently are rent, food, school, his small group of associates and "going to work."

The two most frequent words in the vocabulary of the adult tenement-house dweller are rent and work. The child becomes permeated with the same omnipresent thought, with only this difference, that work is for the most part in the future tense. Rent is the one thing that must be paid. It is the central relentless fact of life. Other things may, comparatively speaking, be neglected — at all events deferred. When the child is of the legal age for work, he goes out to earn the rent. As soon as the child can pay the rent the family can breathe more freely; possibilities of food and furniture and clothing arise that previously had to be held down with a rigid hand. The "sacredness of the job," as it has been termed, thus begins at the earliest period. Compared with the sacredness of the job, what place does conscious civic principle hold?

The cultivated man, meeting every day many varieties of human beings of different interests and tastes and occupations, gradually learns to see life as a complex of manifold and most diverse, yet well-correlated, activities. He gets a civic sense through experience as well as through the imagination. But with the average tenement-house family this is not the case. The family is limited in its outlook. Its associates are few and like-minded at that. Society, then, especially among those who live on the economic borderland, is divided into innumerable more or less isolated groups. The large conceptions that are

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common and edifying to all the groups are, for the most part, these two alone — the church and the public school. The church, even in its narrowest expressions, has something of the universal in it, and some suggestion of the eternal verities of truth and beauty and honor. It means the perpetual presence of moral standards; it is the institutional embodiment of the great ethical imperatives. And the public school, no matter how inefficient and inadequate it may be in certain localities, is still, even where dimly recognized as such, the guaranty that the state is responsible for the education and well-being of its component parts. The public school is the profoundest expression of our conviction of civic responsibility.

Apart from these two great forces that make for the upbuilding of the civic sense and social conscience — the public school and the church — there are other forces that have arisen among workingmen which have vastly more educational influence than we are wont to believe. These are the trade organizations and all the societies that together make up what may loosely be termed the socialistic propaganda. Here, as in the case of the church, no matter what the limitations of method and of intellectual breadth may, under certain conditions, be, the general effect is to promote the organic view of society. A large world of ideals is opened up where the old personal view of life has to give way to a larger conception. Even though new prejudices and new misconceptions arise, the old limitations are broken down. Every trade union is a school, whether it succeeds in raising wages or not. Every socialist organization is animated by a social belief and purpose, even though the terms in which these convictions are couched may not correspond to actualities.

But even where all these educational factors combined — the church, the school, the union — have enlarged the family life and brought to it a vision of civic principle, still a harsh and absolute necessity makes the working child at fourteen, and all the older members of the family who are confronted by the bread-and-butter realities of life, more interested in their jobs than they possibly can be in civic principles.

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The character of the job sought or found in itself reacts upon the whole mental attitude of the worker. And here it is but fair to note a discouraging feature. The increased diversification of industry, — the increased demand for workers who are themselves but parts of a vast machine, — while offering large opportunities for highly skilled labor, offers still larger opportunities for the great army of the relatively unskilled, and thus helps to take away that interest in an occupation as a whole that never fails to dignify the workingman. To work at a trade is to develop skill, and with it something of a comprehension of the importance of the trade in the general scheme of life. The natural tendency of the trades is towards growth and dignity and self-possession. If the child enters upon a trade, he is unconsciously preparing himself for citizenship in the degree that he attains to mental and economic independence. But what is the effect of that kind of a job that does not mean an insight into its relation to the general scheme of life, that does not offer dignity and satisfaction to the worker?

In the first place, unskilled, and what one might call unrelated, labor can expect very little financial advancement, and this lack of expectation of a rise thus becomes a constituent part of the general consciousness of a community where masses of working people congregate. This reacts upon the feeling of hopefulness necessary to produce independence of spirit. Ambition to become a first-class workman at a special job deteriorates into a desire for *any* job. This indifference conduces a willingness to go from one job to another, which is a very different thing from the elasticity of the skilled mechanic. The alertness of the latter means readiness in adaptation; the willingness of the former to change means the growth of instability of character, and hence the gradual production of a class of persons ready to fall an easy prey when the Benefactor or the Strong Man appears.

That this is an especial stigma upon one class of society, let us not for a moment suppose. Everywhere the lack of sticking to one's job, the lack of concentration and conscious

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purpose, works its own especial damage; but its social menace is seen more clearly in that stratum of society where the anatomical structure is more in evidence because less imbedded in the complex covering of other factors.

The dependence of the young working people of the tenement-house districts of our great cities is, however, by no means attributable wholly to the two causes of which I have spoken, namely, the necessity for a job at fourteen, and the relative decline of the trades. This dependence is due to a thousand causes, both economic and ethical, which we can but barely touch upon. One evident cause is the mechanical method of teaching that still exists in our public schools, whereby children are taught to commit to memory rather than to think. Another undoubted cause is the lack of creative imaginative play — a need which we are only beginning to understand, and which is responsible for the greater part of our juvenile crime. Still another cause is the hand-to-mouth policy of domestic management, due partly to the ignorance among women of the simplest household economies, partly to the intermittent earnings of the family that never permit a secure basis of economic calculation, and partly to the apparent hopelessness of saving and thrift when an economic rise seems out of the question.

To sum up, the job seeker is handicapped by his environment and his lack of a resourceful training. He is a dependent child — for the most part a dependent man. One day the job seeker meets the job dispenser. The inevitable happens. With gratitude the job is accepted. "It is a question of commercial advantage," said one of the most honest and respected of Tammany officials simply the other day.

The job dispensers of the great city are evidently the greatest friends the poor man has. What other friends has he to compete with them? There is the neighbor, the clergyman, the so-called "friendly visitor" (if the family has come to the relief point), the settlement resident and the politician. It does not take a prophet to say which of these can confer the most substantial benefit. The neighbor and the politician

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go deepest. The clergyman has, for the most part, his official limits. He officiates at the crises of life, — baptism, marriage and death. He bestows occasional relief. He is the agent at once of Heaven and of the unknown rich outsider. The "friendly visitor" is variously looked upon, with obsequious gratitude or with ill-disguised suspicion, and is chiefly known as a person who finds out about one's private affairs from the housekeeper on the "first floor back." On the whole, he has created a general, though for the most part unwarranted, distrust. The settlement resident is still too new a factor to be measured accurately. But perhaps he stands nearer to the politician than he realizes; certainly he has not yet learned enough of that important man. For the politician combines to an unusual degree the qualities of outsider and insider, man of weight and common neighbor. The politician does not use words people cannot understand. He does not wear clothes that make him seem a foreigner. He went to school with his constituents. He knows who used to live in the block. His children play with the other children. He is what any one of his neighbors might have been had fortune favored. He is grand with a grandeur understood. He is one of themselves raised to the *n*th power. And in the days of his wealth he has not moved "uptown" or grown proud. He is the same old "Jim" that he used to be. Social aspirations may be insidiously creeping into his wife's heart, most certainly have entered into his daughter's, but they do not exist for him. For he has the society he wants, — the society of his friends in the other districts who have risen to the top as he has risen and who have like tastes, ambitions and pleasures. He does not look with envy upon the entertainments of the Four Hundred; they are no more amusing than the hat-check balls of the association proudly bearing his name, and he knows it. A little more elegance in his clothing may be allowed him now than formerly, but if he affects style, it is a style that is understood; it is the multiple of what his friends in the block have already. A naturally friendly man, his opportunities for expressing his friendliness increase as he rises in politics.

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Once, as a neighbor pure and simple, he would have helped the poor widow on the next floor with a quarter toward paying the rent; now, perhaps, he can pay for the whole month. Once, he would have attended the crippled boy's funeral with genuine sympathy; now, he sends a large bouquet (the florist on "the avenue" makes it up, and it is the conventional bouquet the situation requires; a departure from the convention into the realm of cut flowers all of one kind would be to show him an alien).

In all these ways his natural sympathy takes on a more substantial form as his opportunities for spending become enlarged. To be sure, as he goes on his sympathy becomes somewhat more elastic than formerly. He stretches his conception of friendship. And as his power increases and more and more job hunters come to meet him in his rôle of job dispenser, the old friendship more and more sinks into what the Tammany official calls a relation of commercial advantage. At first the expression of real attachment, next the polite social helpfulness to the agreeable acquaintance and finally the exchange of actual recognized services — such is the series through which business emerges from friendship.

What a pity it is that reforms take the time order they do — always coming after things! Civil-service reform, the Australian ballot — these are the afterthoughts of experience. They come to find the job dispenser on the throne. The boss is seated firmly in his place. He has won confidence; he has only to retain it. He can afford to laugh at the afterthoughts of experience; yet the day will come when the laugh will die away, though it is likely to be rather in spite of his enemies the reformers than because of them. For the job dispenser evolved into the ruling boss has in himself certain elements of weakness. He cannot afford to use his power as he sometimes does use it. The public will not revolt, no matter how much patronage is dispensed, so long as its general rights are not interfered with. But the public resents a too open flaunting of power.

Still, a man in power may do much. When one of our New York district leaders arranged for one of his henchmen to have

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a soda-water stand in a small park, the public only laughed when the sign "Sea-Food" appeared over the stand. The extension of the fish market into the park aroused less wrath than good-natured amusement. Power is indeed often quite absolute. Let me present an interesting example of political tyranny that illustrates the rigid firmness with which the boss exacts obedience. A certain New York district belonged politically to a distinguished commissioner. In the district lived a popular saloon keeper. He was handicapped by belonging neither to the dominant race nor to the dominant church—he was an Englishman and a Protestant; but he was a popular man, eminently adapted to be what is known as "the people's choice." He was picked out by the leader as the proper man to run for the Assembly. The saloon keeper did not want to run; he said it meant time and money, and he could not afford it; but at the least he wanted to know what share of the patronage he could have for his friends. Then the leader became menacing. "If you don't run, we'll ruin your business," he threatened. The man yielded and was elected; but he received no patronage to distribute. Within a year his house was mortgaged and he was well on the way to financial ruin; for he had to help his constituents, whereas the district leader was strong enough not to have to help him. The entire patronage of the district was doled out by the leader, whose underlings were mere tools.

Such a situation, although indicating absolute power, is perilous for the party supporting it. Beyond a certain point of endurance even the man whose whole *Weltanschauung* is based on the idea of personal loyalty alone, will waver in allegiance. And yet what course is open to him? He looks about and sees two alternatives, one the entrance into another party, the other a position of political independence. The enormous difficulty of either course is evident. To leave the party identified with his every natural instinct is a wrench only comparable to the struggle of a few decades ago in the religious life of a man abandoning one church for another. For a man of cultivation and experience, reared in independence

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and fed from the beginning on ideas, principles and ideals, the amount of friction to be overcome in such a change is hardly credible. But a man's politics in the district of which I have spoken is more than mere ideas or principles; it is an integral part of his life, interwoven with his entire existence. To abandon it is almost a piece of treachery, an abandonment of one's friends. Even if the victim knows that his position and that of his friends is almost intolerable, he naturally asks himself: But will it be any better elsewhere? Is not human nature the same everywhere, and if evils exist, is it not safer and at any rate infinitely more comfortable for me to remain in the environment I know and understand and with which I am most intimately associated? This conscious or unconscious course of reasoning is not to be dislodged by arguments, by tracts, by the spread of "principles" or by any academic means whatsoever. Such methods are like words spoken in a foreign tongue; they reach neither head nor heart. When the man from the other great party comes along and says "Join us!" the reply, even if unspoken, is: Do you not also try to get places for your friends? Do you not also seek to gain the favor of the dominant corporations? In other words, have you not the same personal methods and aims as ourselves, with the disadvantage that you are *not* ourselves, that you are alien in tradition, in religion — that in fact you are not of us, and hence seem strange and foreign?

And if there is all this to overcome in the case of the transfer of allegiance from one great party to another great party, how much harder is it for a man to give up not only his traditions but his psychology and join the reformers?

For the reformer is a wholly unknown quantity. He is distrusted, like every other foreigner. He comes from a different environment. His English is a different tongue from that of the people he desires to reform. His experience is, for the most part, extremely limited. He is absolutely uncolloquial. He is unfamiliar with all those elements that make up the great traditions of party loyalty. He does not sympathize with these traditions, even if he knows them. He is an

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outsider. He is working on the people, not with them. He wants them to be different from themselves and more like him. In all this the position of unconscious superiority is alienating in its effect. The people who listen to him may not doubt the desirability of the reforms which he mentions; they simply doubt *him*, and that is fatal. They take him lightly; he is not real. Since he is unaccompanied by the substance of patronage, and lives in a world of ideas, the people regard his talk, in the picturesque phrase of the Tammany official, as "a whirlwind of words." Added to the doubt of the reformer's substantial merits there is often as well the dark suspicion that he is a decoy, a sort of forerunner of the rule of the capitalist, a man clever with words but leading one on to ruin. He must have some ulterior purpose. Thus the reformer has far more friction to overcome in his attempt to win over the workingman than has the party out of power.

Occasionally events crystallize so that the reformer can come into power through an extraordinary revulsion of the people against their masters. But this revulsion has to be produced by events rather than words. A few men of the dominant party sent to prison will do more to cause a revulsion of feeling than all the arguments or newspaper *exposés* in the world. The reformer may then get his innings, and if he makes some effort to understand the human nature that pervades the greatest part of the city population, he may remain for longer than a brief season. But the odds are against it for a long time still to come. For the reformer is as yet constitutionally unable to follow up the detail necessary for political popularity and success. He relies on ideas, not on men. He does not realize that the majority of citizens still live in a world of personalities, not of principles.

But while the reformers who are before the public as such are monopolizing attention and getting more than their share of approbation and blame, there are three great classes of reformers that are passed by, almost as unworthy of serious attention.

What is the nature of real reform? Is it not the break-up of a long-held philosophy of life? Does it not involve the idea

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that change is possible? Is it not of the essence of true reform that men shall know that the order of the day is not an eternal order, but that what is, can actually be otherwise? "Any change in our district," said an astute priest to me recently, "would be a change for the better, for it would involve the idea of the possibility of progress." The real reformer is one who breaks up old prejudices, looks forward to a new and better order and does his share in trying to bring about that order. The weak, futile and professional reformer, the distrusted man bringing discredit upon the name of reform, is he who has visions — and it may be noble ones — but who unfortunately endeavors to accomplish his purposes by wholly inadequate and inappropriate means. The reformer, to be successful, must be a loved man or an astute man or both. He must be a leader whom the people love to follow out of sympathy, affection and trust, or he must be a man acquainted with practical politics and understanding how to utilize his knowledge.

Now real reformers may be grouped in three classes. First there is the seer, the preacher, the exhorter, the agitator if you will. In general, the function of this type is to see, preach, exhort, agitate, not to organize. His value is that of a clarifier, a light bringer. Phillips Brooks was a reformer. Like the sunshine his personality and preaching permeated the whole mental atmosphere of his time and raised the tone of life in the locality he blessed. For as we must, with Aristotle, think of politics as the whole conduct of life in the community, we must admit that he is a great political reformer who raises the whole plane of civic life. The great seer, preacher and agitator must be classed among the educative factors of social life — with the school and the press. He is by no means to be confounded with that remote and yet meddlesome reformer whom the workingman distrusts, who desires in his inexperienced, amateurish and futile way to supersede the solid masonry of the old parties. On the contrary, it is the function of the seer to point out the vision; the man of method can best put it into effect. To discover and to utilize belong in general to two different temperaments.

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The second class of real reformers consists of those who, themselves workingmen, are striving for the elevation of the class in which they live. These men are often leaders of small labor parties. They may be editors of practically unknown newspapers; they may be presidents of some obscure debating or literary societies. Our working population is honeycombed with these elements of reform. Such a reformer should be recognized as a real source of power. His activity is ardent, continuous and engrossing. He makes his friends read history and biography and economics. The works are rarely the classic authorities, but they are of sufficient merit to stimulate thought. Where there is thought there is hope. The man to worry about is not the vitally interested socialist, but rather the sodden and obedient disciple, taking what is offered and asking nothing further. A democracy must be alive to the core. The only dangerous classes are the indifferent classes, in whatever stratum of society they may be found.

The third class of real reformers is to be found in the independents within the fold of a great party. That a man cannot retain his independence and still be a member of a great political party, is equivalent to saying that independence and organization are incompatible. For membership in a party does not involve a declaration of belief in all the principles laid down by that party; it simply signifies a willingness to join a party the majority of whom probably hold to the principles of the party as laid down in its platform. To stand aloof from the great parties, to keep out of the way of the besmirching influence of what is called "practical politics," is to allow those parties to fall more and more a prey to the most evil influences. Nowhere is the independent reformer so deeply needed as he is in the great political parties. Nowhere can the young reformer meet such stirring difficulties, such bracing defeats, such wholesome discipline. The political party is a hard school, often subject to ignorant and domineering teachers; but if one can keep one's heart and head, the battle is indeed worth while.

But as yet none of these classes of reformers is strong enough to play a prominent part. The seers are too few, the

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reformers in the workingmen's ranks are too scattered and obscure and the great parties contain too few independents.

The difficulties then that lie in the path of municipal reform are very great. In the first place, there is the difficulty that the situation is largely dominated by two great national parties that have little or nothing to do with municipal questions. Secondly, any attempt at reform runs up against the solid wall of tradition and prejudice and personal preference. Thirdly, the reforming class in general has little sense for organization, little regard for the psychology of the situation and little patience in daily drudgery and detail.

The law of substitution of which the educators speak so frequently and with such good sense is applied but little in the art of politics. Yet in politics if anywhere the idea is applicable. The out and out reformers may enjoy a brief success, but it will be likely to be sporadic; for success will never rest on the banners of the outsider, the foreigner to the majority. Success will belong to him alone who is not ashamed to try humbly to understand the place politics holds in the minds of the mass of voters. He will see that he has more to do than to meet issues. He must be a real friend, and a person who seems natural and near. If the law of substitution is to be applied, he must be a real rival to the boss. He must, that is, have some little prospect of success; he must strive to make life pleasanter for the voters. He must have a positive civic program, not a negative program consisting of moral goodness and antagonism to existing powers. The development of municipal parties to take the place of national parties would do more than any other agency in our cities to spread ideals. The value of the independent reformer is the value of the high-class agitator in any field; he clears the atmosphere, he speaks the truth. But the great constructive work of reform is still likely for years to come to be in the hands of parties, and it will have to be carried out through the gradual enlightenment of the parties.

But all schemes of enlightenment through legislation and education must be built up on the evidence of facts. The

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reformer who starts out with ideas and methods that do not correspond with actual conditions is a positive mischief-maker. The pure and simple theorist can afford to despise facts. He can go on the principle so often adopted by the economists: "At any rate, if things are as my premises declare, then my results follow." This, if not always valuable, is at least harmless. But the practical reformer cannot afford to adopt this principle. A reformer has to deal with facts; and if he interprets them incorrectly, he is likely to give a setback to true progress.

It is therefore absolutely essential that agencies of interpretation should be increasingly effective, in order, first, that the facts of life among tenement-house dwellers may be understood by those who have influence on legislation, and second, that those who understand may accommodate themselves to actual conditions. Here is where a large part of the value of "settlements" lies. From the vantage ground of daily contact with the lives of working people even facts already substantiated through other sources assume a different color. Statistics become vital, old truisms take on a new grace or an added shame and many a generally accepted opinion turns out to be a myth. Persons hitherto lumped together into a class are differentiated; old homogeneities break up and are displaced by a quite different classification.

A close acquaintance with the life of the tenement-house neighborhoods of New York is an absolute essential for all who are working for social betterment. If that acquaintance cannot be first hand, then it must come through those who do live in such neighborhoods. The social settlements, in so far as they truthfully interpret the lives of people to one another, are of real and great value. But the settlement is rather a method than an institution. No one can live in a settlement for any length of time without the discovery that he has more to learn than to teach, that to reform he too must be reformed.

It is often said that we in New York have just as good a city government as we deserve — that water will not rise higher than its source — that the government of every city is just

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exactly what the city desires. There is a sense in which this is true. Democracy is a government by public opinion. But we have to take issue with the assertion that public opinion does actually govern New York. We have properly speaking no public opinion. We have opinions enough — opinions of one group and of another group; but there is as yet no general permeating public opinion in regard to public life. The charitable society Tammany Hall, formed, as its constitution declares, for the relief of its indigent members, has lived up to its purpose. It has helped out its indigent members and friends. It has become from a friendly society the governing power of New York because it has so thoroughly looked after its friends. Is there a public opinion in the proper sense of the word about Tammany Hall? I think we may say there is not. There is hatred of its cupidity, its ignorance, its effrontery. But there is no public opinion that is common to all. In other words, there is no general understanding of the actual Tammany Hall, with its criminal aggressions on the one hand, and its deep element of power through its personal hold on the people on the other. Public opinion cannot exist where there is no common understanding. We can have a government by majority where there is no common understanding, but a government by public opinion can exist only where all the elements of public life are fused in a crucible of common thought or feeling. To make a strong public opinion then, it is first necessary that all the component parts of the given public shall understand something of the life and thought of the other parts, and it is especially necessary that the minority shall understand the majority.

True reform and lasting reform will come about when public opinion will sustain it. When the reformer understands men as well as the politician friend understands them, he too will have his day.

To sum up, then: we have tried to show that the development of the job-giving friend is complemented by the dependence of the friend benefited; that thus the two elements in the bargain of political business fit hand and glove. We have tried

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to point out that with the ordinary poor man the sacredness of the job must necessarily be a more powerful factor than any consciousness of civic principle. We have briefly indicated the ordinary avenues through which friendship comes to the poor man, and we have seen that the friendship of the politician is by far the most substantial. We have seen the nearness of the politician, the remoteness of the typical reformer. We have seen what the nature of true reform is and where it is and ought to be found. And we have tried to point out that no lasting reform is possible until there is a development of public opinion worthy of the name. In this necessarily incomplete outline, one thing alone shines out clearly, and that is that progress is really being made. That is the hopeful thing about democracy; it is slow but thorough. A common consciousness is arising. The man is becoming the citizen. The noble ideal of the state is taking hold of the imagination, and from the slums of dishonor there is bound to rise the City Beautiful.

MARY KINGSBURY SIMKHOVITCH.

NEW YORK CITY.

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ENGLAND AND THE AMERICAN COLONIES IN THE SEVENTEENTH CENTURY.

THE seventeenth century in American history is marked by the rise and the decline of the system of chartered colonies; this is its chief characteristic. By the term "chartered colonies" are meant the corporate colonies of New England and the proprietary provinces, all of which originated in grants from the British crown. Such grants were indeed the instruments by which the other colonies also were founded, and their development embodied the contributions of private and local enterprise to the general movement. Their founders and settlers bore the risks, hardships and losses which were incident to the beginnings of colonization. And indeed it is hardly supposable that English colonization could have begun in any other way; for the financial risks connected with the enterprise were so great that neither lord treasurers nor monarchs could have been induced to assume them. But by the close of the century all the colonies of this type had suffered temporary eclipse, and nearly all of them had permanently disappeared. Royal provinces had taken their place. This is the most important and significant transition in American history prior to the colonial revolt; and, though the events connected with it are very familiar, I shall venture again to call attention to a few of them.

This transition was effected in part by causes operative within the colonies themselves, and in part by pressure from the home government. Internal changes were chiefly active in the proprietary provinces, and least so in the corporate colonies of New England. The latter attained at the outset an organization which suited their needs and temper. Under it for nearly half a century they enjoyed *de facto* self-government, and they were under no temptation to change it for anything essentially different. In the proprietary provinces conditions

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were by no means so stable. The inefficient administration of many of the proprietors, the narrow pseudo-dynastic policy of others, the confusion which sometimes resulted from doubt as to the governmental or territorial rights of proprietors, not infrequently led the colonists to prefer government by the crown. Against not a few phases of proprietary government when at its best the people were always protesting, with the result that gradually the powers of the proprietor were limited and thereby the institutions and political life of the province were broadened and strengthened. It may be said that in every case the transition from a proprietary to a royal province resulted in improvement. We hear of very few, if any, demands for the restoration of the proprietary system when once abandoned, while demands and agitation having as their object the substitution of royal for proprietary government were common. They occurred on a considerable scale in Maryland, the Carolinas and Pennsylvania. Virginia very soon became reconciled to the dissolution of the company, and repudiated efforts for its reëstablishment.

But it is not with this phase of the transition that we are now concerned. Instead of further considering the internal causes which operated to bring in the system of royal provinces, the attention of the reader is directed to those which proceeded from the home government. We have to do in this division of the subject with the beginnings of the British Empire, of which the American colonies were then a part. The maintenance of a system of control was the essential function of the sovereign power in the development of that empire. The process by which this system of control was developed was not foreign to the colonies, though it was external to them; it was a part and a condition of their existence. When properly exercised, this control was not a meddlesome interference, but was just as necessary and inevitable as were the tendencies toward isolation and independence in the colonies themselves. Under the Romano-feudal system colonization of the Greek type did not exist. Had the colonies not been subject to control along the lines in which sovereign power

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is accustomed to act, they would not have been dependencies, but something other than that. The historian's task, in this connection, is to trace the growth of this imperial system and to note the action and reaction of the opposing tendencies within it. If either is ignored, or its legitimacy discredited, half the meaning of the period will be lost.

The organs of government through which executive control over the colonies was exercised were essentially the same in the reign of James I that they were in the reign of George III. They were, besides the sovereign himself, the secretaries of state, the privy council, the commissioners of the treasury, the commissioners of the admiralty, the law officers of the crown, the courts of law and — to be determined by events — either the Archbishop of Canterbury or the Bishop of London. Committees or commissions subordinate to the privy council — like the commissioners of trade and plantations — or subordinate to the treasury board — like the commissioners of the customs — were subsequently added, but they made no fundamental change. They were mainly boards of inquiry and report, charged with special duties in detail, and when they took positive action it was by virtue of some permanent or special order from the king, privy council or treasury board. Behind them all stood Parliament, with the unlimited possibilities attaching to it as a regulative power. Every act which the two houses chose to pass and the king to accept, in which the dominions were mentioned, might be enforced in the colonies by the judicial and administrative bodies to which reference has just been made. And in fact the Acts of Supremacy and Uniformity of Elizabeth, together with the severe legislation passed against the Catholics in the later years of her reign and immediately after the Gunpowder Plot, all referred to the dominions, as well as to the realm, and could legally have been enforced in the former. Instructions were actually issued for the administration of the oaths in Virginia, and the fact that they were tendered to Lord Baltimore on his visit there is well known. They could have been used against Protestant dissenters just as well as against Catholics.

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During the period prior to 1642 the privy council was by all means the chief administrative body. Its activity as an executive board was incessant, while at the same time it possessed extensive judicial powers. The secretaries of state were then clearly subordinate to it and to the king, though later, with the establishment of cabinet government, they came to occupy in large measure the place previously held by the council in colonial administration. The entries in the *Calendars of State Papers* show that before 1642 the activity of the privy council in colonial affairs was greater than at any subsequent time. In 1634 very sweeping powers were given to the board of commissioners of foreign plantations, which consisted of privy councillors, and which one would infer was expected to deal in some cases directly with the king. The then Archbishop of Canterbury was its moving spirit, and, had its period of activity been prolonged, it would probably have been dominated by considerations mainly ecclesiastical. The extent of its powers would indicate that the charters were then considered by the crown to guarantee only private rights, and that the powers of government existing under them were subject to inquiry and to practical annulment at any time by this board. During the years of the Commonwealth and Protectorate we hear little of the successor of this board, but much of the council of state, which continued the functions of the privy council. Of the admiralty board we hear when naval expeditions were fitting out, and in the case of Ingle *vs.* Lord Baltimore. Virginia tobacco occupied some of the attention of customs officials and of the privy council as well. Of the courts only the King's Bench was called into activity, and that to revoke the charter of the London Company. In the issue and recall of charters the services of the law officers were always in requisition. The House of Commons inquired into the monopolistic features of the charter granted to the New England Council, but was warned to keep its hands off the Virginia business. When the kingship was abolished all the administrative bodies of course referred to Parliament as the source of their power. These general and well-known facts it has been necessary to

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mention in order to indicate where activity began and through what bodies it operated.

To the royal officials who were seeking to establish and maintain control over colonial affairs the place of residence of those who received proprietary grants was a matter of great moment. Both judicial and administrative control could be much more easily exercised over a corporation or proprietors resident within the realm than it could over those resident on a distant continent. The form under which land and especially trade were managed was also of some importance. The government first came into relations with the London Company and the New England Council. Both were corporations located within the realm, but at the same time proprietors of provinces. Because located within the realm they were subject to all the forms of regulation and interference, both by king and Parliament, to which corporations generally were liable. The experience of the London Company, together with the little we know concerning other companies at that time, would lead to the inference that the tinkering came more from the executive than from the legislative. We know that James I, after Sir Edwin Sandys was elected treasurer of the company, attempted to apply to it the *congé d'élire*, the instrument by which the cathedral chapters had been humbled and their rights of election annulled. The company did not yield; whereupon, since it was the importer of the entire annual product of Virginia tobacco, the crown then strictly regulated its trade. By the charter the rate of duty specified for imports from Virginia was five per cent. But that was overridden, and Virginia tobacco was subjected to such rates of duty as might be specified in the Book of Rates, while an additional imposition known as a garbling duty was levied. When the company attempted to carry its tobacco direct to the Low Countries it was sharply ordered by the privy council to land it in England, and the policy later known as that of the enumerated commodities was applied — a policy that was widely extended under the Acts of Trade. The company also, as is well known, became involved in the political controversies of the time.

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This was another incident connected with its place of residence. A contract which it was arranging with the king and lord treasurer, through which the company hoped to secure the monopoly of the importation of tobacco into the realm and the king hoped to secure a large revenue, was therefore made use of by a faction within the body for the purpose of destroying the corporation itself. In 1624, under a writ of *quo warranto*, the company was dissolved, and Virginia became a royal province. With this began that transition from chartered colonies to royal provinces to which reference was made above.

The fate of the London patentees furnished an excellent object lesson for those who, six years later, removed the governing body of the Massachusetts Company into New England. The New England Council, the second of the companies resident in England which had been chartered for the purpose of colonizing North America, had then been in existence nearly a decade. It was intensely loyal in spirit, but at the same time utterly inefficient as a colonizing agency. Into the composition of the Massachusetts Company, on the other hand, went a spirit of religious and political dissent and a power of initiative which was stronger than any manifested even among the London patentees. After the removal of the Massachusetts Company into New England and the establishment of its colony there, a controversy arose between it and the leaders of the New England Council. This was caused by conflicting territorial rights, by the treatment visited by Massachusetts on some who had been grantees or agents of the Council within New England and by the ecclesiastical and political attitude of the new colony in general. This controversy was carried before the privy council and finally occasioned the issue of a writ of *quo warranto* against the Massachusetts charter.

The information[1] filed by the attorney-general in this instance was directed not against the corporation itself, but against its members, whether resident in England or New England. It cited the main provisions of the charter and

[1] Publications of the Prince Society, Hutchinson Papers, I, 114.

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declared that the said franchises and liberties had been usurped in contempt of his Majesty the King. At this point appeared the significance, from the standpoint of judicial control, of the removal of the Massachusetts Company into New England. The writ issued in pursuance of the information was not served upon the officers and members of the corporation who were resident in New England, and probably could not have been served and a return secured within the specified legal time. The information was filed in Trinity Term of 1635 (11th Charles I), and the trial was held in Michaelmas Term of the same year. At the trial, which was before King's Bench, fourteen members of the company appeared and pleaded that they had not usurped any of the said liberties and did not claim them. Thereupon in each case it was decreed by the court that the individual concerned "shall not for the future intermeddle with any of the liberties, priviledges or franchises aforesaid, but shall be forever excluded from all use and claime of the same and every of them."[1] Matthew Cradock made default and was convicted of the usurpation charged. It was decreed that the liberties, so far as Cradock possessed them, should be seized into the king's hands, that he should be excluded from the further use of them and should be held to answer for the usurpation. The record closes with the statement that "the rest of the patentees stood outlawed and noe judgment entered up against them."

The effect of this action on the part of King's Bench seems to have been to exclude from the company such of its members as were accessible and appeared, while the corporation itself remained intact. The governing body of the company defaulted through non-appearance, and the record states that they stood outlawed. But it also states that no judgment was entered up against them. We have no record that steps were taken to complete the process of outlawry, which would have required the issue of several additional writs, and those

[1] The fact that this was the decree in the cases of Sir Henry Rosewell and Sir John Young is not expressly stated, but there is no reason for supposing that they received different treatment from the others.

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directed toward the execution of a judgment already pronounced and recorded. Had it not been for the legal difficulty connected with the service of the writ, it is altogether probable that the Massachusetts Company would have shared the fate of the London Company, and the way would then have been cleared for the governor-generalship of Gorges, as soon as the New England Council surrendered its charter. As it was, on three[1] occasions between the summer of 1637 and the spring of 1639, authoritative information came to Massachusetts from the commissioners of foreign plantations in England that the magistrates and others had no legal right to govern the colony, that a judgment had passed against the charter and that it should be sent home. To one of these messages a reply was sent excusing themselves for not transmitting the charter lest such act might be interpreted as its surrender. Of the last peremptory demand no notice was taken. That the government, had the corporation been resident in England, would have allowed itself to be balked in this way is hardly credible, even though it was at the time on the eve of a civil war. But the corporation stood and, when the Restoration came, was treated as in full legal existence.

It should be remembered that the ideals of the Stuarts concerning government were not essentially different from those of the French monarchs and statesmen of their time. They believed in the complete and unobstructed supremacy of the executive. At the beginning of his reign Charles I issued a proclamation[2] in which he announced his desire that both the dominions and the realm should be organized according to the same model, that of the monarchy. So far as the British government ever had any conscious or active purpose in reference to the subject, it was in harmony with the sentiment of this proclamation. Had Charles I and Archbishop Laud succeeded in their plans at home, the emigration of dissenters to the colonies would probably have been checked, and the effort to reorganize the government of Massachusetts

[1] Winthrop, I, 269, 323, 359.

[2] Hazard, Hist. Colls., I, 203; Rymer, Foedera, XVIII.

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would have been renewed. In the attempt already made to reduce it to the status of a royal province we see a repetition of the policy which had destroyed the London Company, and an example of the policy which the crown, when actively interested in colonial affairs, always showed itself ready to adopt. Though a sense of personal and official favors received led Charles to grant away Maryland, the reduction of New England to the state of an immediate dependency, had it been consummated, would have gone far toward securing from the outset colonial administration of the type preferred by the Stuarts. The provinces could then have been placed under an executive control, the chief immediate object of which would have been to maintain uniformity in religious worship. But plans of this nature were shattered by a civil war which itself was occasioned by the attempt to enforce uniformity and absolute rule in the three kingdoms.

After the Restoration the former relations and tendencies reappear, but with some important modifications. Among these modifications special mention should be made of the abandonment by the English government of efforts to enforce religious conformity in the colonies. It was by that time becoming evident that ecclesiastical unity as an ideal for the realm would have to be abandoned, and no thought seems to have been entertained of further efforts to realize it in the dominions. This is evidenced both by the omission from the Act of Uniformity, passed subsequent to the Restoration, of all reference to the dominions and by acts and declarations of the crown. In all the royal charters which were issued to colonies subsequent to the Restoration, as well as in the instructions to the royal commission of 1664, the principle of religious liberty found recognition. In the charter to the Duke of York no reference whatever was made to religion, and all forms of Protestant worship existed in that province, while Catholics and Jews lived there in quiet. The same, of course, was true in the Jerseys. The object of the king in his dealings during this period with Massachusetts was, as he declared in the instructions to the commissioners of 1664, not

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to crush out dissent, but to secure for Anglicans who might reside there the right to use the Book of Common Prayer in public worship.[1]

In the Carolina charter the hope was expressed that failure to attend public services of the English Church would, "by reason of the remote distances of those places," not be considered a "breach of the unity and conformity established in this nation." Authority was therefore given to the proprietors to grant liberty of worship to dissenters within the province, provided they conducted themselves quietly and did not disturb the civil peace. Of this permission the proprietors availed themselves, and a large majority of their colonists were dissenters. In Pennsylvania, with its Quaker proprietor and settlers, the situation as compared with England was reversed, and this was fully recognized in the charter. It sought simply to guarantee the right of Anglicans to organize themselves into local churches when, in each case, as many as twenty could procure a preacher who was licensed by the Bishop of London. It thus appears that, subsequent to the Restoration, the policy of the home government was limited to efforts to secure for the English Church recognition in the colonies which were inhabited wholly by dissenters, and certain privileges in other colonies.

The tendency toward variety, and at the same time toward liberty, was also strengthened by a number of large proprietary grants at this period. Of chief importance in this connection was the creation of the proprietary provinces of Carolina, New Jersey and Pennsylvania.[2] The position and temper of the proprietor of New York, together with the fact that his province was won by conquest, gave a different significance to that grant. The issue of the charters to Connecticut and Rhode Island, by which those colonies were made corporations resident in America, and hence practically recognized as self-governing commonwealths, was also a notable event. If the

[1] New York Col. Docs., III, 54, 58.

[2] Clauses were introduced into the Pennsylvania charter which were intended properly to secure the rights of the crown.

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king at one time could have had his way, even Virginia would have been changed again into a proprietary province. Considered from the standpoint of those who might be interested, or who might become interested, in systematic colonial administration, these acts must to an extent be considered as aberrations. They were such in so far as they resulted from the mere personal favoritism of the king or a careless disregard of consequences on the part of his advisers. But the phenomenon has a deeper and wider meaning. The large proprietary grants referred to simply afford proof that the period of settlement was not yet over. The region lying south of Virginia and the largely unsettled New Netherland had still to be occupied by Englishmen. In order to secure that, recourse must be had to the proprietary system. The English government was no more prepared in 1660 than it had been in 1600 to undertake directly the work of settling colonies and establishing their institutions, industry and trade. For the accomplishment of such purposes resort had to be made to the accustomed agencies. But in doing this the government yielded some things which it was soon eager to recover.

By the time the period of the Restoration was two-thirds over, an attack had begun on the chartered colonies systematically and all along the line. This was occasioned by the passage of the Acts of Trade and by the special conditions which existed in New England. The Acts of Trade were the result of an effort to deal comprehensively, and in accordance with the accepted economic views of the time, with colonial commerce. Since the time when the tobacco contract had been formed with the London Company, trade with North America had passed from the control of chartered companies into the hands of private merchants, a part of whom were resident in England, while others lived in the colonies. Moreover, the land from which an important part of colonial exports was raised, was now in the form of private estates. Thus an industrial system based on the institution of private property had developed. The producers were colonists; the exchangers were both colonists and Englishmen. The home government

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sought so to regulate this system by statute and administration that the staple products of the colonies and their supplies should pass through British ports and markets — that the colonists, while furnishing raw or half-manufactured material for British producers, should themselves constitute a market for finished British products. Though to a considerable extent this policy was consistent with the economic condition of the colonies as it then was, in some respects and to varying degrees it crossed their interests. With details and with the specific bearings of the acts we are not here concerned. But we are concerned with the fact that these acts necessitated, for the first time in British history, something like systematic colonial administration, to be applied in and over the colonies themselves and not to trading companies resident in England. So long as settlement and trade were controlled by corporations, or indeed by individual proprietors, resident in England, these affairs could be supervised by pressure brought directly to bear on the corporations or proprietors themselves. But common landholding and the magazine system had vanished, and the later proprietors paid little direct attention to trade. Owing therefore to the changes, both administrative and economic, which had come about since the dissolution of the London Company, imperial control must now be exercised in America as well as in England; it must reach the colonies directly and not through trading companies or proprietors resident in England; it must also be comprehensive and not desultory.

In New England, and especially in Massachusetts, a variety of questions demanded settlement, and some of them reached down to the very roots of sovereignty. There was the controversy between Massachusetts and the heirs of Mason and Gorges as to the possession of New Hampshire and Maine. Over the settlements within these provinces Massachusetts, in the period of its assumed independence, had usurped control, though by doing so she had perhaps saved them from anarchy. Similar usurpations and controversies in the Narragansett region also called for attention. The difficulties connected with the enforcement of the Acts of Trade were certainly as

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great in New England as elsewhere. Massachusetts persistently refused to acknowledge the right of appeal. She clung to her religious test. None of the Puritan colonies can be said to have voluntarily recognized the crown in any of their acts, though for several reasons the attitude of Connecticut was not so offensive as that of Massachusetts. None of these colonies was willing to allow the English Church to obtain a foothold if it could be prevented. In legislation they followed their own course, and none of their acts had ever been submitted to the home government for its approval or dissent. While within the law, Massachusetts — and to a less extent the other Puritan colonies — was in spirit and reality in an anomalous position. They had existed under a system of separatism and of *de facto* self-government which was inconsistent with the main trend of events subsequent to the Restoration. As their position had been an extreme one, so in their case the reaction was extreme, and to the controlling element among the colonists it was very offensive.

The king began mildly. He first attempted to adjust New England relations through a royal commission; this failed. He then resorted to correspondence and to a succession of agencies, a part of these being sent under his command from Massachusetts, and others despatched by himself from England. These also failed to bring the requisite submission. Then the aid of the courts was invoked, and the Massachusetts charter was declared forfeited. But in order to reach it, the *quo warranto* method which had failed in 1635, and was now tried again, had to be abandoned, and the more summary procedure under a *scire facias* substituted. The writ by which *quo warranto* proceedings were instituted was dated June 27, 1683, and was returnable at Westminster the third day of the next Michaelmas Term, which was early in the following November. Edward Randolph, who was sent over as agent to serve this writ, did not arrive in Massachusetts until near the close of October. The general court could not be brought together to act on the summons until November 7. Then the time for the return of the writ had already passed, and procedure was thereby blocked. That

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this was the fact, and that it furnished the cause of the abandonment of process under this form, is indicated by the statements of the attorney-general, Robert Sawyer, himself. In an opinion rendered the following May,[1] he declared:

> The *quo warranto* was brought against the present members of the Company, . . . and the process directed in the ordinary form, . . . but the latter was not delivered until after the return of the writ was out. The Sherifes principall objection why he could not return A summons was because the notice was given after the return was past. He did also make it a question whether he could take notice of New England, being out of his balywick.

Randolph states in one place[2] that the fault lay in the form of the writ — in the fact that it was directed against particular persons and not against the governor and company by name. This, however, could hardly have weighed with Sawyer and the other legal authorities; for only two years before, in the great case of the King *vs.* the City of London,[3] the defendants had claimed that such writs should be directed only against the natural persons who make up a corporation and not against the corporation itself, which is indissoluble; while Sawyer himself argued with convincing force, citing the case of the Virginia charter among many others, that both forms, or a combination of the two, were valid. Moreover, when two years later Randolph was charged with the service of similar writs against Rhode Island and Connecticut, he wrote:

> Now to the intent the time limited for serving the writs upon the Governors and Companys of those Collonys may not be lapsed by delays and the difficulties of a winter voyage, and his Majesty's prosecutions thereby rendered ineffectual, as it was in serving the writ of *quo warranto* against the Boston charter, it is humbly proposed, that in three weeks time at farthest a ship is bound from London directly to New England, by which the *quo warranto* may be sent and served accordingly, to the end there may be no delays made in that affair.[4]

[1] Toppan, Edward Randolph, III, 297.
[2] *Ibid.*, 300; Mass. Col. Recs., V, 421.
[3] State Trials, VIII, 1101 *et seq.*, 1150 *et seq.*
[4] R. I. Col. Recs., III, 177.

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Under the writ of *scire facias*, according to the rules of procedure which seem then to have obtained, after the sheriff or his agent had twice returned nihil, and that too within a brief period, the prosecutor could enter a rule for the defendant to answer within eight days, or judgment would be entered by default to avoid the patent.[1] If the defendant made default, the charter could be voided without his receiving any notice. Attorney-General Sawyer, as soon as he was informed of the failure of Randolph's attempt to serve the writ in time for a legal return, advised that the process of *scire facias* should be resorted to. This course the government adopted, and the Massachusetts charter was cancelled.

The words of the decree which was entered after the second return of nihil were as follows:

> Whereupon the aforesaid Sir Robert Sawyer Knight, the King's Attorney General who prosecutes this cause for our said Sovereign Lord the King, prayed Judgment and that the said Letters Patents, soe as aforesaid to the said Governor and Company made and granted and the Inrollment of the same, for the reasons aforesaid forfeited, be Cancelled, vacated and annihilated and restored into the Chancery of our said Sovereign Lord the King there to be Cancelled. And the said Governor and Company, the fourth Day of the Plea of Eight daies of the holy Trinity above menconed, before the King in his said Chancery here, that is to say att Westminster aforesaid, being solemnly called, did not approve but made default, whose default is recorded by the said Court here. Therefore by the said Court here itt is adjudged that the aforesaid Letters Patents . . ., and the inrollment thereof, be vacated, Cancelled and annihilated, and into the said Court restored there to be cancelled.

The main features of the process appear in the language of decree. It was summary, and the decree was entered after default. But it was effective, and by no other judicial process was any corporation resident in America reached during the period of colonial history.

[1] Foster, Writ of Scire Facias. The two returns of nihil in the case of the Crown *vs.* Massachusetts will be found incorporated in the body of the judgment. 4 Mass. Hist. Colls., II, 262, 278.

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Having overthrown the system of the Puritan commonwealth in Massachusetts the crown resolved further to sweep away by prerogative and judicial action all the chartered colonies, and to unite the royal provinces which should result from this process under a governor-generalship. The accession of the Duke of York to the throne, and the substitution by that event of royal for proprietary government in New York, gave a decisive impulse to the extension of this policy outside of New England. The clamor of the merchants and magistrates of New York for the rehabilitation as an English province of the old New Netherland, with its boundaries at the Connecticut and the Delaware, was greatly strengthened by this event. Though *quo warranto* could be easily and successfully used against proprietors resident in England, it was no more available against Connecticut and Rhode Island than it had been two years before against Massachusetts. But for some unexplained reason it was resorted to again against them. It again proved ineffective, and for the same reason as when used two years earlier against Massachusetts. Government under the charters of Connecticut and Rhode Island was suspended, but the corporations were not dissolved; yet had it not been for the opportune expulsion of James from the English throne, the ideal of the British Tory and administrator would then, so far as we can see, have been realized.

As the program, in the form which it then possessed, implied the extinction of assemblies or their reduction to an utterly subordinate place, we can see that, had the policy triumphed, a colonial system much the same as that of France would have developed. But as soon as the king and ministers who had devised this scheme were driven from power, many of its extreme and arbitrary features vanished. As we now look back upon it, compare what preceded with what followed, view it in its relations with British colonial development in general, we can see, I think, the element in it which was justifiable — an element which remained after the arbitrary features of what we know as the Andros régime had vanished. In order to secure the enforcement of such rights of control as the home government was entitled to — rights the exercise of which was proper

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under any political system worth the name, — it was necessary that a royal executive and judiciary should exist within the colonies. So long as the colonies remained separate from one another, it was necessary that such a body of officials should be developed in as many of them as possible. Under the system of chartered colonies it did not exist, and indeed there was very little place for it. The merit of the supporters of the Andros régime is to be found in the fact that they forced an entrance for these officials into so many of the special jurisdictions. Under William III and his successors the effect of this was not lost; for, though the assemblies were restored and their continuance as a part of the system never thereafter questioned, steps were taken which temporarily changed all but two, and permanently all but four, of the colonies into royal provinces. By this means in each of these provinces a full corps of royal officials was secured, and they, in subordination to the general and specific orders of the English government, continued during the early eighteenth century and the struggle with the French which then taxed all resources to administer the affairs of the colonies.

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WHAT HAPPENED TO THE ENGLISH PARISH.[1] I.

IT is often assumed that the New England township was but a reproduction in the new settlement of the immemorial parish organization which the Pilgrim Fathers had known in their English homes. We do not propose to examine with what degree of accuracy such a statement can be made. It is plain that if the English parish crossed in the *Mayflower* it dropped overboard on the passage many of its original characteristics, and started, in its new home, on a separate development of its own. Moreover, the parish that was left in England did not remain unchanged. Without attempting at present any comparison between the two growths, it may be interesting to tell what happened to the English parish.

The history of the parish organization in England during the seventeenth and eighteenth centuries constitutes the greater part of the history, during those years, of English local government. Even as late as the first quarter of the nineteenth century the parish was undoubtedly the most important, as well as the most widely distributed, of local governing authorities. All the other governing bodies put together — the county justices, the municipal corporations and the bewildering variety of boards and commissioners created by special acts of Parliament — hardly numbered one thousand. But right down to the Whig reforms of 1832–35 there were no fewer than "15,635 parishes or places separately relieving their own paupers," spending a revenue that ran into millions sterling, levying their own rates, appointing and controlling their own officials, keeping their own accounts and exercising, without the smallest control or audit by any government department, a more varied activity in civil administration than has since devolved upon any one authority. The parish as a local governing authority was, in

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fact, ubiquitous. Not only in the rural districts and the unincorporated market towns, but also in every municipal borough and in the City of London itself, the parish possessed, and for the first thirty years of the nineteenth century continued to exercise, local governing powers at least equal in their importance to those of the more dignified chartered bodies.

It is difficult to give any clear description of the legal organization of the parish at that time. It had, from time immemorial, been regarded by Parliament and the law courts as a corporate entity, capable of possessing property, exercising rights and performing duties. But it had not been incorporated by any charter, or established by any act of Parliament. Assumed to have arisen by immemorial prescription, the organization of the parish was admittedly subject to indefinite variation according to local usage; and it had, moreover, been made use of from time to time by civil, ecclesiastical and even military authorities for the performance of new social duties. Each of these grants or evolutions of powers and duties assumed or prescribed for the parish a particular constitution and procedure and a particular set of officers; each, moreover, placed the parish, so far as the particular function was concerned, under a different code of law and in a different series of relationships with external authorities. The result is that at the beginning of the nineteenth century the student finds the powers and functions of parish government divided in a confused and almost inexplicable way between the locally resident justices of the peace, the rector or vicar, the vestry, the churchwardens, the overseers, the surveyors of highways and the constable. Before the reader can intelligently follow the description which we are about to give of the different types and phases of this government between 1660 and 1835, he must have some conception of the relations between these different authorities — we cannot say as they existed in the normal type, for there was no such thing as a normal type, but as they would probably have been defined by the law courts in any case that was brought before them.

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I.

The broad base of the parish organization was the periodical meeting of inhabitants "in vestry assembled." This assemblage of heads of households, limited by no exclusive franchise, fettered by no prescribed procedure, had by custom wide and indefinite powers of binding the whole parish by its resolutions and by-laws, and of directing the expenditure of the parish funds. It was entitled, without sanction from any other authority and absolutely without limit, to levy a compulsory tax upon all the occupiers of land or houses within the parish, by what was termed the "church rate," whenever funds were required for the repair of the church, the expenses incidental to the church services or the care of the churchyard, for the maintenance of the stocks, the pound, the fire engine and any other parish property, for the destruction of vermin, the burial of vagrant strangers, the salaries which the vestry had granted to any of its officers and the reimbursement of their expenses, — in short, for practically any public service whatsoever that the vestry chose to allow.

The principal officers of the parish were the churchwardens, who were chosen annually by the vestry in Easter week. It was assumed that each parish should normally elect two churchwardens, and it was customary for the inhabitants to choose one, and the incumbent of the living the other. These officers, who were unpaid, shared with the incumbent the management of the church and churchyard, and in their capacity of ecclesiastical functionaries they had to present themselves before the archdeacon of the diocese, to be by him "admitted" to their office, and nominally had to report to him upon the ecclesiastical affairs of the parish. But the king's courts regarded the churchwardens primarily, if not exclusively, as temporal officers, acting in some sense as general trustees for the inhabitants of the parish. They had the custody of the funds derived from the church rate, which by the order of the vestry they levied, and they were required to submit accounts annually to the vestry, by whom these were audited and passed. Subordinate

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to the churchwardens the vestry had entirely under its own control the nucleus of a paid and permanent professional staff. By custom, in many parishes the vestry itself not only could fill vacancies in the freehold offices of sexton and parish clerk, but also could appoint, on such conditions as it chose, a beadle and a vestry clerk, whose stipends were allowed in the churchwardens' accounts. Finally, the churchwardens, the elected servants of the vestry, had been made by statute *ex-officio* overseers, and their coöperation was thus required in the more important acts of poor-law administration.

But the bulk of this poor-law administration fell within the domain of the overseers, whose position as parish officers was in the last degree anomalous. They were appointed, not by the vestry, but by any two justices of the peace. Their accounts had to be passed by two justices. They were placed by statute to some extent under the orders of any justice of the peace. On the other hand, once admitted to office, they were personally liable to be indicted for manslaughter if they refused relief to any destitute person, and were legally entitled to insist that the necessary poor rate for their reimbursement should be signed by the justices, whatever the justices might choose to resolve upon the subject. Exactly what relation the overseers legally held to the vestry was never defined. In most parishes it was customary for the vestry annually to nominate persons to the justices for appointment as overseers, and this nomination was usually but not necessarily adopted. The vestry was supposed to exercise some undefined supervision and authority over the overseers as regards all but urgent poor relief; and some acts of poor-law administration, such as suing to enforce covenants in indentures of parish apprentices, though performed by the overseers, required a formal resolution of the vestry. The churchwardens, moreover, were, as we have mentioned, *ex-officio* overseers, jointly with those expressly appointed, and it is not clear whether any poor rate could be made without their coöperation. Thus the overseer acted under a threefold responsibility: he was amenable to the law, to the justices and to the vestry and churchwardens. Whether the

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vestry had any right to examine the overseer's accounts seems highly doubtful, and it is clear that only the justices could disallow any illegitimate items in them.

The surveyors of highways, familiarly known as "waymen" or "waywardens," occupied a comparatively simple position. Here statute law made it clear that the vestry was to nominate annually suitable persons for the office, and that the justices of the peace were to make the appointment, usually, but not necessarily, selecting from the vestry's list. The surveyors, once appointed by the justices, were not under their orders or subject to their control. They were legally bound to maintain all the public highways of the parish and legally empowered to exact the "statute labor," or its money equivalent, from every householder; and they were legally entitled to reimbursement for the balance of their expenditure, through a rate which the justices were obliged to make, irrespective of the desires or commands of the vestry or the opinions of the justices themselves. Moreover, though they had been placed under statutory authority to lay their accounts before the vestry, the only power which the vestry possessed in the matter was that of resolving to depute some one formally to make objection to the allowance of the accounts, when these were subsequently submitted to the justices of the peace.

The constable or constables, together with the borough reeve, headborough and other officers of local police, had originally nothing to do with the vestry and were appointed at the court-leet of the manor. In those parishes in which the manorial courts had fallen into desuetude it became customary for the vestry to nominate suitable persons to the justices for appointment as constables. But whether the vestry nominated or not, it was the duty of the justices to appoint a constable in every parish in which the court-leet failed to make the appointment. Moreover, express provision had been made that the accounts of the constable, by whomsoever he had been nominated or appointed, should be submitted to the vestry, not by the constable himself, but by the overseer (who was not bound to lay his own accounts before the vestry), and in this case the vestry

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was explicitly given the right of approval or disapproval of the expenditure.

To sum up, it is clear that, at the beginning of the nineteenth century, the parish was, in regard to the appointment of at least one churchwarden, the expenditure of any sums out of the church rate and the making, assessment and collection of that rate, an entirely independent and self-governing authority. Within this sphere the duly summoned meeting of inhabitants in vestry assembled was supreme, for the reason that it could, without limit or control, allow or disallow any items of the expenditure of its officers and levy an unlimited and unrestricted rate. So far as concerns the rest of the administration of the parish, — the relief of the poor, the repair of the roads and the duties of petty police, — the control of the parish government (if we leave out of account the ulterior liability of the parish officers to be personally indicted for neglect of statutory duties) was shared between the vestry meeting and the locally resident justices of the peace. The principal function of the vestry meeting, as contemplated by eighteenth-century legislation, was that of suggestion and criticism. By its nominations year after year it was to suggest to the justices suitable persons on whom the burden of office might be cast, and by its criticism of the accounts it was to bring to the notice of the justices any malversation or extravagance that needed to be corrected.

This description of the bare legal framework of parish government, complicated though it is, utterly fails in conveying any conception of the complications that really existed. To begin with, local usage or long-continued custom admittedly modified any part of parish government not expressly prescribed by statute; and most parishes had some peculiar customs or usages. A special act of Parliament, moreover, could modify for the parish even statutory provisions, and a special act of Parliament was often obtained. To make confusion worse confounded, parish law at the beginning of the century was not embodied in any authoritative code, and the lawyers differed widely in their interpretation of it. Resort to the law courts was expensive, and therefore unusual, and every parish

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accordingly did what seemed right in its own eyes. And, as there was a widely spread impression that a properly convened vestry meeting could discuss any subject, pass any resolution and give any orders that it chose, we need not be surprised at finding parish government twisted and contorted into many different shapes. To form any correct idea of how the 15,000 parishes of England were actually governed, we must extract from vestry minutes and contemporary accounts some picture of the real organization of typical parishes in rural and urban districts respectively. We shall, in these articles, deal only with those parishes—the great majority—in which the meeting of parishioners in vestry assembled continued to be the legal governing body.

II.

The most widely prevalent and also the simplest form of the vestry at the beginning of the century was that which was to be found in the thinly populated rural parish made up of a few dozen families. Here on Easter Monday or Tuesday the clergyman would meet the three or four farmers who occupied land in the parish and who, together with himself and the squire, and possibly the miller, the innkeeper and a small freeholder or two, probably constituted the whole body of persons assessed to the rates. Two of the farmers would have acted, during the preceding year, as churchwardens and overseers of the poor. These would produce to the meeting a rough book in which were entered the rates received and the sums expended on behalf of the parish.[1] On the accounts being mentioned, some

[1] Such a rude cashbook, often containing the entries for a whole century, reveals in inextricable confusion the multifarious duties of the parish organization. Payments for the destruction of sparrows, hedgehogs, foxes or polecats are mixed up with the cost of the sacramental wine; a weekly pension to some aged pauper is intermingled with occasional items for thatching the parish cottages or "church house," or clothing a girl going out to service; "beer for clerk tolling the bell for vestry" may appear next to an annual item of "keeping the book, as usual one shilling"; now and then a letter on a settlement case is entered as "paid for a letter from Manchester, one shilling"; during the winter months or in wet weather allowances appear to nearly all the laborers of the parish, entered in lump sums as "digging stones for the roads," or "paid men and boys for standing in the pound"; sometimes women have been paid for looking after invalids, or a penny

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objection might be taken by one of the farmers to this or that payment — there would be grumbling at something spent on new church furniture or at the grant of poor relief to the family of the squire's gamekeeper. But the retiring overseer would explain that the clergyman had insisted on the one, and that a neighboring justice had ordered the other. After the accounts had been passed there might be some conversation, ending in a general understanding as to the need of a load of stones for the repair of a certain parish road, or the amount per week to which the married laborers' wages should be made up out of the poor rate. But the principal business of the meeting, at any rate in the eyes of the retiring overseer, was to find some one to relieve him from the onerous and absolutely unpaid office of collecting the rates and paying the poor. The vestry might nominate a list of suitable persons from whom the justices could appoint two overseers. In the great majority of rural parishes there was, however, but little choice, and in practice the retiring overseer nominated his successor. "I Edmund Miller do recommend William Holiday to serve the office of overseer for the year ensuing" is a typical entry in the parish account book. The largest farmer would probably agree to continue for another year as "people's churchwarden," whilst the clergyman would again name the squire's bailiff as "rector's warden." It would be taken for granted that the weaver, the blacksmith or, in later years, the village schoolmaster would continue in office as parish clerk for the customary stipend, and an elderly laborer or woodman as sexton, whose remuneration consisted in the customary small fees for bell ringing and digging the graves. Formal minute there would be none, unless the clergyman chose to jot down in a copy book kept in the vestry

a head is allowed towards the maintenance of all the children in the parish; there is a journey to the neighboring town to pay the county rate or to conduct a lunatic to the asylum; making out the jury list costs a shilling or two, and "attending with it" at the county town some shillings more; in time of war substitutes for the militia have to be hired, or payments made to militiamen's wives; whilst throughout the whole there run items for churchwardens' expenses at the annual visitation, in waiting upon the justices going to the assizes, or attending an inquest held by the county coroner.

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the names of the churchwardens among the totals of the occasional collections made on "Communion Sunday"; or unless the overseer thought fit to interpolate a memorandum of some decision among the figures in his cashbook. At the break-up of the meeting the retiring overseer would take his cashbook to the hall, where the squire and the clergyman, as justices of the peace, would sign the parish accounts. During the rest of the year there might possibly be another vestry meeting, to authorize some unusual expenditure on church or poor, but in most cases any parish business would be transacted by two or three farmers over a pot of beer, or in a chance conversation on the road with the clergyman or the squire.

Rural parishes of larger area or more numerous population had the same simple organization as the smallest hamlet. There might be a few more farmers at the vestry meeting, together with a shopkeeper or two. Instead of concentrating all the work of the parish upon two or three persons as churchwardens and overseers, the vestry would probably nominate, in addition to the people's churchwarden, two of the farmers or shopkeepers to serve as overseers, and two or three more, including perhaps the village innkeeper, to be surveyors of highways. There might be also a parish beadle or constable, and even other petty officers, such as tithingmen or aleconners, inherited from the manorial court. Three separate rates would probably be levied for church, poor and highways, and separate books would be kept by the churchwardens, overseers and surveyors respectively. In many parishes the poor-rate account would not be produced to the vestry, being simply laid by the overseer before the justices in special sessions for allowance. And now and again the justices, in quarter or special sessions, would come to some resolution as to the amount of poor relief to be allowed or the procedure to be adopted with regard to the overseer's accounts, which would be acquiesced in without question, but not strictly observed, by the parish officers.

The organization here described may be taken as typical of the local government of all the strictly rural part of England. There was no formal procedure; no rigid adherence to law;

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and absolutely nothing in the nature of central supervision or control. The laborers, who included two-thirds of all the heads of families, were not rated and held no other position in the parish organization than that of recipients of relief. The vestry was, in fact, a little oligarchy, raising its revenues by direct taxation of its own members, exercising by its expenditure autocratic power in parish government, but itself subject to a very real, if somewhat indefinite, control at the hands of the squire, the parson or other neighboring justices of the peace. Moreover, the official relationships between the parties were inextricably interwoven with the economic relationships that existed between the same individuals in their private capacities. The justice of the peace was probably the landlord of every member of the vestry; the overseer and his colleagues in the vestry were the employers of the paupers; and even the clergyman, who was in many respects the most independent person in the village, owed his position to the squire, let his glebe to the overseer and drew his tithes from every occupier of land in the parish. Hence, though there might be grumbling, there could be no effective resistance to the action of the governing group. On the other hand, though there were no minutes, no printed accounts and no reporters for the newspapers, the persons who paid the rates themselves controlled every item of expenditure and knew everything that was going on. Flagrant acts of dishonesty were all but impossible, and public opinion was a real power. In some cases there would be injustice and favoritism to individuals, or a silent encroachment on public rights in common lands, footpaths or charitable endowments. But the worst feature of the system was the total lack of knowledge or capacity to deal with the serious problems involved in the government even of the smallest village. Under the costly parsimony of the rural vestries the highways became impassable and had to be increasingly transferred to turnpike trusts. The unintelligent distribution of poor relief brought about a demoralization of the rural districts that bade fair to bring the nation to ruin. Yet so long as the parish remained strictly rural in character and fairly stationary in population,

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there was, generation after generation, no essential change in its local government. Right down to 1835 the vestry, in the vast majority of the English parishes, retained all its important and multifarious duties and continued to be the same little oligarchy of intimate neighbors, tenants of the squire and employers of the paupers, presided over by the clergyman and dominated by the neighboring justices of the peace.

More populous parishes often continued to work harmoniously under no more elaborate organization than that of the rural vestry. So long as the parish contained a population fairly stationary in number and reasonably stable in its economic relationships, the note of voluntary agreement, so typical of the early vestry, continues to run through all its proceedings. "Agreed and consented to by us whose names are hereunto subscribed" is a phrase constantly found preceding the lists of signatures by which the "inhabitants in vestry assembled" were accustomed to authenticate their minutes. And although the lawyers held that the resolutions of a vestry were obligatory on all the inhabitants, whether present or not, it is easy to trace in these proceedings a constant feeling that the matter was one for actual agreement among the parties concerned.

Such a quasi-voluntary local government is well seen in the records of Minchinhampton, an unincorporated ancient market town and centre of the old-fashioned Gloucestershire woolen industry. The vestry minutes of the beginning of the nineteenth century reveal to us that the "vestry" met monthly to relieve the poor, repair the church and mend the roads. But we gather that, at all these routine meetings, the "vestry" consisted of two or three churchwardens and overseers, other inhabitants attending only when the business personally concerned them. Thus the rector, instead of presiding by right of his office, only appears at long intervals, once to protest against a projected removal of the pound, and another time to sign a resolution, along with twenty-three other tithe holders, by which the parish agreed to exonerate his tithes from rates on condition that he accepted a fixed composition. The two or three manufacturers do not bestir themselves to attend at

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all, until the high rates of 1800 incite them to discuss ways and means, and to resist the proposed new assessment of their mills. And here and there, throughout the minute book, the attendance of this or that substantial ratepayer appears only when he comes to bargain with the parish about the sum which he will agree to pay for exoneration from his liability to maintain a bastard child. What is perhaps more significant is the evidence, during a whole generation, of the constant desire of the parish officers to fortify themselves on every important step, not merely by the legally authoritative resolution of a duly convened vestry, but by the actual presence and signed agreement of all the principal inhabitants. Whenever the "vestry" is about to make, adjust and finish a rate, embark on legal proceedings, raise men for the militia or revise the discipline and dietary of the workhouse, the meeting is habitually adjourned, and "the inhabitants of the parish" are specially summoned to the adjourned meeting and "earnestly requested to attend so that the general sense of the parish may be known upon the business." On one occasion, when the rector and parish officers had to reorganize the whole poor-law administration of their little kingdom, they plaintively urged, in their notice, that no plan would succeed "unless gentlemen of character and ability in the parish so far take an active part in the parochial concerns as to give a regular, constant and vigorous attention at stated times."

Even so important a town as Brighton continued, down to 1810, to get along on this basis of voluntary agreement. The admirably kept volume of "Minutes of vestries . . . holden for the Town and Parish of Brighthelmstone" makes us intimately acquainted with the "private vestry," meeting monthly at six o'clock at the different taverns in rotation, and attended only by the churchwardens and four overseers. Here they decided all questions of poor relief, managed the workhouse, filled up vacancies in the minor parish offices and even authorized two of their own number to journey into Lancashire to visit the children lately apprenticed to a mill owner. But whenever they needed to make a departure in policy, such

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as building a new workhouse, alienating parish property, raising men for the militia, making a new assessment for the parish or getting special constables appointed to prevent theft, we find them summoning what is called a "public vestry," in order to fortify themselves by an expression of agreement of the inhabitants at large. It is part of the same system of government by common consent that, both at Minchinhampton and at Brighton, there is, for years together, no mention of the election of churchwardens or the nomination of overseers or surveyors of highways, which, according to law, ought to have taken place annually. Under this government by a little knot of the "principal inhabitants," trusted by the local magistracy, enjoying the confidence of their neighbors and enforcing the consent of their dependents, the legal constitution of the vestry became, in fact, of no account. The complicated and wholly anomalous relations which the law prescribed between the incumbent and the people's churchwarden, between the overseers, the local justices of the peace and the ratepayers' meeting, between the constable or the surveyors of highways and the individual parishioner, produced no friction and created no disorder. Parish vestries of this type, however deficient in knowledge and incompetent in execution, had at least two great merits: they afforded permanent and honest organs of administration, and they expressed the effective public opinion of their little communities.

III.

So far we have been dealing with old inhabited parishes, stable in their social and economic relationships, and only slowly increasing in population. But by the end of the eighteenth century there had sprung up another England, presenting new conditions and aggravated problems of local government. Round about the City of London, in the unincorporated mining and manufacturing districts of the northern and midland counties or even within the boundaries of ancient municipalities, the new industry and the growth of foreign trade

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were bringing great aggregations of population into old parishes. Here the economic and social relations by which alone, as we have seen, the component parts of the vestry organization were held together, either had never existed or were in progress of rapid disintegration. The powerful ties of landlord and tenant or employer and wage earner, the strong but intangible link of family relationship or inherited social status, uniting the squire with the clergyman and the country solicitor, the farmer with the handicraftsman and the laborer, and all these with one another, no longer strengthened and supplemented the bare legal relation between the justice of the peace and the overseer, the incumbent and the people's churchwarden, the parish officers and the parish ratepayers. Deprived of this extraneous cement, the slight constitutional framework of the vestry organization, dependent on a complicated and unknown body of law and local custom, fell hopelessly into confusion. The inhabitants of the new urban districts were unknown to one another; many, as newcomers, were uninterested in the local affairs and unacquainted with the local customs. The meeting of the "inhabitants in vestry assembled," the base of the parish organization, either was unattended and disused or occasionally was thronged by an excited mob of persons (who might or might not be actual ratepayers), angry at a new rate or whipped up by some personal interest. The clergyman of the parish, the official chairman of the vestry, was frequently an absentee who had no other secular or religious connection with his parishioners than the delegated exaction of his annual tithes and dues. The nearest justice of the peace, whose coöperation was the corner stone of parish government, — without whose signature no overseer could be appointed, no accounts passed and no rate collected, — might be a county magnate, living far away from the new urban district; or, what was worse, he might be an unscrupulous man of inferior origin who had, for personal ends, intrigued himself into the commission of the peace. The actual time, place and method of appointment of the parish officers, notably the overseers, the constables and the surveyors of highways, were, so far as the

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great bulk of the inhabitants were concerned, shrouded in mystery. These officers might nominate each other and get themselves appointed by a complacent justice of the peace; or, on the other hand, respectable householders might find themselves compelled to undertake the onerous duty against their will, by the mere fact of their names having been presented by their predecessors to petty sessions or (in the case of the constable) to a surviving court-leet. If we add to this confusion the consideration that it was exactly in these new urban districts that the public business of the parish was becoming every day more onerous, that the mass of pauperism was increasing by leaps and bounds, that new buildings by the thousand were springing up on all sides, that paving, cleansing, lighting and watching were all unknown, that the crowding together of tens of thousands of poverty-stricken persons was creating unspeakable nuisances, and that at the same time the amount of the rates levied on the inhabitants was quickly doubling and trebling, — we shall easily understand why, in one parish after another, the situation became intolerable.

In the almost infinite variety of parish government that ensued, we may distinguish three principal stages or types. We have first a state of indescribable chaos and disorder, when the control of the parish was "anybody's game." An ambitious overseer or unscrupulous justice of the peace might become a corrupt "boss," in the American sense. Elsewhere the parish officials formed a narrow clique, electing and reëlecting one another to offices which they knew how to make both personally profitable and independent of control. The vestry meeting often became the battlefield of rival factions, Radical ratepayers electing nonconformist churchwardens to spite the clergyman, and Tory justices of the peace or stewards of the manor ignoring the vestry nominations and appointing overseers, surveyors and constables of their own faction. This state of things continued in some parishes, notably Manchester and Leeds, right down to the local-government revolution of 1834–35. More frequently, however, we find this stage of

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conflict and chaos terminated by a usurpation. In some urban districts, where the court-leet had disappeared and the justices of the peace were acquiescent or indifferent, an energetic knot of ratepayers would reorganize the parish government in such a manner as to place the whole administration effectively under democratic control. We see the vestry developing a representative governing body, acting through duly subordinate salaried officials, and genuinely responsible to the inhabitants at large, assembled in periodical public meetings. This extra-legal system of representative government was embodied in 1819 in a celebrated statute, and thereafter became the legal constitution of many urban vestries. Elsewhere the usurpation took another form. In many parishes the wealthier inhabitants succeeded in obtaining acts of Parliament, withdrawing from the open vestry the more important public services [1] and creating for their performance an amazing medley of statutory bodies — innumerable courts of guardians, governors and directors of the poor, boards of trustees or commissioners for every conceivable public service and other nondescript corporations termed select vestries. These bodies, with their illogical and apparently haphazard variety in nomenclature, constitution, function and jurisdiction, must form the subject of separate treatment. Here we have still to describe the state of chaos and disorder into which, in many urban parishes, the whole vestry organization fell; and out of which, in some of the more fortunate of them, an effective democratic constitution was spontaneously developed.

The important parish of Bethnal Green, which practically adjoins the City of London on the northeast, was already, as Francis Place observes, "the residence of an immense number of poor people," and its government for over thirty years, from 1790, presents a complete example of what has since been called the rule of a boss. From the evidence given before

[1] Sometimes it was even enacted "that no public or open vestry be held within the said parish, nor shall any powers or authorities whatsoever be exercisable by the inhabitants of said parish or any portion of them in open vestry or otherwise assembled."

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various select committees of the House of Commons and from other sources we get a vivid picture of the career of one Merceron, who ruled the parish from about 1790 to 1823. In what capacity he began does not appear, but we find him at the end of the century acting as permanent treasurer of the parish funds, supported by the mob which, at his command, swamped every vestry meeting. The rector of the parish described how he had seen this boss, in order to prevent investigation of his accounts,

> instigate his creatures to riot and clamour, even within the walls of the church: he has taken his stand on the church steps and proposed three times three huzzas, taking his hat off, and being foremost in the shout: so successful was he on that occasion that lately he has adjourned all public vestry meetings to the churchyard, where the mob has collected to support him.
>
> He takes care [pathetically continues the rector] to elect the most ignorant and the lowest characters, on whom he can depend to fill all parochial offices and to audit his accounts: when I say elect, I mean that his influence is so extensive in the parish that whoever he nominates, the vestry is sure to sanction and approve.

This control, as complete as that of Tammany in New York City, was fortified by his being in the commission of the peace. As justice he was able to get complacent overseers appointed, whose accounts — virtually of his own expenditure — he did not scruple to pass. By his influence among the other justices he secured the grant of public-house licenses to his supporters, as well as the power of doing other favors to his friends and of making himself disagreeable to any who crossed his path. He did not stick at altering the rate book with his own hand, after the assessment had been formally made, with the effect of reducing the sums payable by his supporters, and doubling or trebling those charged upon his enemies. As the only magistrate resident in the parish, what he allowed was law, and we gain a glimpse of his methods of obtaining popularity in his permitting the popular sport of bullock hunting in the streets, even on Sunday morning, despite the protests of the rector and the respectable inhabitants. His first great

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opportunity came in the distress of 1800, when Parliament voted a grant in relief of the suffering poor. For the parish of Bethnal Green, this amounted to no less than £12,000, the whole of which passed through his hands. In one way and another he amassed a large fortune, which he invested in public houses and cottage property within the parish, thus adding the power of landlord to that of magistrate and parish officer. As in a modern American city, it was found impossible to dethrone this boss, even after publication of his iniquities, by anything short of a fundamental change in the constitution. In 1823 an act of Parliament abolished the old vestry and put its powers in the hands of about a hundred of the wealthier inhabitants.

In other urban districts the disorganization of the parish government arose in the main from two separate causes: (1) the difficulty of getting trustworthy persons to fulfill the unpaid offices of overseer, constable and surveyor of highways; and (2) the divided authority exercised over these parish officers by the justices of the peace and the court-leet on the one hand, and by "the meeting of the inhabitants in vestry assembled" on the other. In the larger parishes, with tens of thousands of inhabitants, it became simply impossible to get any decent person to serve as overseer. In the new towns of Lancashire and the midlands the churchwardens took upon themselves to nominate, or the justices to appoint, a "standing" or "stationary" overseer, who served year after year at a fixed salary, which was "allowed" in his accounts, and thus paid from the poor rate. Meanwhile the same difficulty was met in finding persons to serve as constables, and the court-leet was obliged to recognize the performance of the duties by a deputy, who undertook the tiresome business of apprehending criminals, putting down nuisances, passing on vagrants and even locking up in his own home or the "cage" offenders taken in the act, pending their prosecution. But the court-leet had no means of providing a salary and, when the customary constable's fees proved insufficient to pay this deputy, would often agree with the justices to accept the

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standing overseer as deputy constable. This had the effect of concentrating in the hands of a single ignorant official practically autocratic power over the liberty and comfort of the poor and the purses of the wealthier ratepayers. As deputy constable he was, to an undefined extent, subject to the orders of the borough reeve and constables; as standing overseer, he had to get his accounts eventually signed by any two justices of the peace; as collector of rates, he had to secure some sort of coöperation from the churchwardens. If these authorities were either indifferent or corruptly complacent, or even at loggerheads with each other, the paid official was uncontrolled. In the background there was, indeed, the meeting of inhabitants at the parish church; but in the new and growing districts the vestry meeting was seldom well attended, and whether it had any legal power over the deputy constable or standing overseer was always a matter of doubt.

It is easy to imagine the scandals that ensued. Those who explore pamphlets and newspapers of the years between 1800 and 1832 will find instances, at one time or another, in very many populous parishes. The story, though varied in detail, presents always the same leading features. One of the most important cases was fortunately described in vivid but superabundant detail by an indignant reformer, whose pamphlets have been preserved.

In the great parish of Manchester, which in 1801 included 76,788 inhabitants, the governing authorities during the latter part of the eighteenth century were (1) a borough reeve and two constables, appointed annually in October at the court of the manor, and (2) the churchwardens, elected every Easter by the inhabitants assembled at the Collegiate Church. Service in these offices was, as usual, compulsory and unpaid, but the work of police and poor relief — not to say also scavenging and otherwise governing what had become the third city of the kingdom — had far outgrown the capacity of honorary officers. It had therefore become customary for the borough reeve and constables to appoint a deputy constable, who had to be provided with a salary. The churchwardens had also found paid

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assistance necessary and had obtained sanction, in 1790, for the appointment by the justices of additional overseers, with salaries payable from the poor rate. Hence we find, at any rate from 1790 onwards, the justices appointing as an "additional overseer" every official for whom it was necessary to provide a salary, from the deputy constable down to the town scavenger. This resulted in a confused entanglement of powers and functions which it is now quite impossible to unravel. How far separate accounts were kept and what authority the vestry meeting was supposed to have over them, are unknown to us, but we read incidentally of the "deputy constable's accounts" being cursorily read over at the Collegiate Church "quarterly, without permission of an inspection afterwards." More important than this quarterly meeting of inhabitants was perhaps "the veal pie feast, held monthly at the Bull's Head," when

> on . . . the first Sunday in every month, all parties in office, churchwardens, overseers, constables, town and country sidesmen [*i.e.*, overseers of the out-townships] &c., a jolly clan, join at this pious banquet. The churchwardens, who ought to be watchful over the honesty of the [salaried] overseers, become so familiar with each other when once fortified with this divine liquor, that all babbling and taletelling tongues are hushed.

Under this system of local government the rates had "increased since the year 1790, from eight thousand to upwards of twenty thousand pounds per annum" four or five years later. In 1794 the churchwardens and overseers had to make within a few months two successive rates, each of five shillings in the pound. This seems to have brought about a crisis. Charges appeared in the newspapers accusing the deputy constable and principal standing overseer of "ignorance, mismanagement, peculation and breach of trust." The borough reeve and constables at last called a public meeting, which elected a committee of twelve to inquire into the conduct of the officer impugned. A prolonged investigation ensued, in the course of which some, at any rate, of the charges were fully substantiated. Although £300 or £400 a week were passing through the hands of a single officer at £150 a year, no cashbook, journal or ledger

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was kept, and the only accounts were a series of rough memoranda on odd sheets of note paper. No receipts or other vouchers were produced. There was no check on the collection of the parish revenue. Many houses were not assessed to the rates at all; many others were assessed only for insignificant sums; and of those assessed, many hundreds of rates were never collected. There was absolutely no audit of the sums received, many of which were alleged not to have been accounted for. The expenditure was equally uncontrolled. "Clothing and goods have been indiscriminately given to almost every person who made application . . . Near three thousand pairs of shoes [were] given from the workhouse last year." Enormous sums were professedly paid away in outdoor relief and expenses of removals.

But the deputy constable rose to higher flights than mere peculation. The duty of billeting soldiers upon the innkeepers of the township was turned into a lucrative source of private revenue. In order to be favored in the distribution of billets, each innkeeper was induced to make a series of presents to the all-powerful parish official. Thieves and the persons from whom they had stolen were alike laid under contribution, all stolen property being impounded, and in many cases converted to private uses. Even the duty of paying the paupers was made to yield its toll of profit. A clergyman and magistrate testified that the deputy constable had bought for £40 £100 worth of "base and counterfeit copper" coin with which, as overseer, to pay the outdoor poor their weekly allowance. His crowning iniquity, at least in the eyes of the respectable inhabitants, was his conversion of the revenue derived from bastardy cases into an all-pervading system of blackmail. The former overseer had, in 1786–87, been regularly collecting and accounting for weekly payments from 614 fathers of illegitimate children. The "Red Basil Book," in which the names and addresses of these fathers were recorded, was promptly lost by the deputy constable, and there was no "regular register of illegitimacy kept from the year 1787 to the year 1790, nor any sum received on this account. If the

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public are credulous enough to believe that all the children belonging to 614 fathers, or all the children born since the year 1787, died before the year 1790," this absence of bastardy revenue might be accepted ; but unfortunately it was proved that the deputy constable had, as overseer, been terrifying erring or duped citizens into paying considerable sums for rate-supported children of whom they were alleged to be the fathers.

How long it was before the township of Manchester was able to rid itself of this Napoleon of parish officers, we are not able to ascertain. We gather that the court-leet, after hearing the evidence, found him guilty, but the new borough reeve and constables reinstated him for at least one further year, in spite of indignation meetings of the inhabitants.

Meanwhile the principal inhabitants had, by a local act of 1792, secured the establishment of a body of commissioners, entirely distinct from the parish and township organization, to deal with the scavenging, lighting and watching of the town. The churchwardens, too, had succeeded in 1790 in getting a local act for building a new workhouse, which incidentally withdrew from vestry control the management of the workhouse and apparently all the expenditure on poor relief. There remained to the public meeting of inhabitants the annual election of the churchwardens, the nomination to the justices of persons eligible to serve as surveyors of highways, the grant of the church rate, and the passing of the accounts of the churchwardens for church expenditure and those of the constables for the apprehension of criminals. But though between 1795 and 1818 there were occasional complaints, especially of the secrecy of the officers' proceedings, the meetings of the vestry were apparently quite perfunctory and not attended by the public.

In 1818 (the year before the so-called "Peterloo Massacre") we enter a period of excited democracy. In 1819 the Radicals obtained from the King's Bench a mandamus against the churchwardens requiring them, in their capacity as overseers, to lay the constables' accounts before a public vestry. This took the

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form of a crowded meeting in the Collegiate Church (now Cathedral) at 11.30 A.M., at which the Radical forces had been gathered by a public handbill. The items mainly objected to consisted of the cost of the printing of the circulars by which the constables had called a private meeting of municipal inhabitants to pass votes of thanks to the magistrates, military officers and the borough reeve for their conduct on the field of Peterloo. The constable defended his action in thus summoning only the principal inhabitants, on the ground that in a city of a hundred thousand it was impossible to apply the methods suitable for a small town and invariably to call public meetings. Such scenes reached a climax during the exciting years of 1830–35. When the churchwardens and constables appeared in the old Collegiate Church to pass their accounts, they would have to face a howling mob of several thousand persons, who filled the whole building, perched themselves on every coign of vantage, and vigorously applauded the speeches of their champions. During the three years 1831–33, an open vestry meeting was held in Manchester for one purpose or another nearly every quarter, and at every meeting such Radical leaders as John Edward Taylor, the brothers Thomas, John and Richard Potter and Archibald Prentice would make a strenuous fight to elect their own churchwardens and surveyors of highways, to cut down the salary of the deputy constable, to disallow payments made for special constables or partizan handbills, and (in 1833) to resist the imposition of any church rate whatsoever.

By this time the turbulence and incapacity of these vestry meetings had seriously discredited the whole system of government by the ratepayers themselves. The following description, by a Tory newspaper, of the vestry meeting which in 1835 rejected the church rate, may possibly somewhat exaggerate the irreverence of the mob, but it well expresses the deep disgust felt by the governing classes.

Excluding Mr. Hadfield, Mr. Potter, Dr. Johns, and a few other gentlemen thinly scattered among the mob, the meeting was made up of the lowest scum of the town, the most riotous, disorderly, ill-clad, ill-assorted and uncivilised portion of the population, who had

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no capacity to understand the question at issue, who violated all the ordinary rules of decency, and desecrated in a disgusting manner the Church in which it was necessary to hold the meeting. The scene had literally all the features of a bear-garden. From one to two thousand persons, for the most part unwashed, unshaven and in rags, had taken possession of all the pews in the Church before the proceedings commenced, most of them having their hats on, and the majority standing upon the seats or the backs of the pews; subsequently crowds of these people made their way into the gallery, clambering from seat to seat, and covering with filth the seats and cushions on which they trod.

The great Whig organ, the *Manchester Guardian*, was scarcely less outspoken with regard to a vestry meeting of 1832. It declared that its report utterly failed

in conveying anything like an adequate impression of the disgusting character of the proceedings, . . . of the degree of reckless violence, unabashable impudence and Billingsgate scurrility. . . . We expect that one of the early acts of a reformed Parliament will be to put an end altogether to the necessity of meetings like that of Wednesday. It is utterly preposterous that thirty thousand people (even if the meetings were really confined to leypayers, which notoriously they are not) should be called together for the transaction of parish business. Such assemblies neither have nor can have a deliberative character. They are by their very constitution utterly incapable of the calm and dispassionate consideration of any disputed public question in its various aspects. And we hold it to be utterly impossible that, in the intended municipal constitutions to be given to the new boroughs, the superseding of these ancient forms, which however suited to the small towns and sluggish habits of byegone days, are worse than useless among our immense masses of population at the present time, should not form one of the most prominent objects. The representative system must be introduced for the regulation of those expenditures connected with the poor rates, which now come before promiscuous meetings of the leypayers, as well as with those of the other local taxes.

SIDNEY and BEATRICE WEBB.

LONDON, ENGLAND.

(*To be continued.*)

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MUNICIPAL GAS AND ELECTRIC PLANTS IN MASSACHUSETTS.

ONE of the first municipal electric street-lighting plants in the United States was built by the town of Danvers, Massachusetts, in the year 1888. This plant quickly attracted the attention of other municipalities, and also of the private corporations that were engaged in similar work, especially as Danvers petitioned the legislature, in 1889, for authority to supply private consumers from its plant. In the session of 1890 dozens of petitions with thousands of signers, coming from the cities of Boston, Worcester, Fall River, Lowell, Lawrence and New Bedford, as well as from many smaller places, were presented to the legislature, asking that cities and towns be permitted to distribute gas and electricity for general use. Judging by results, the influence of the private corporations seems to have been more potent with the legislators than were the wishes of the petitioners, for a bill was reported that has since proved to be very favorable to existing gas and electric interests. This bill[1] became the basis of the Municipal-Lighting Act of 1891.

By this act cities and towns are authorized to purchase or construct gas and electric plants both for street lighting and for the general supply of the service to their inhabitants. When a city or town has, in the manner prescribed in the act, decided to establish a municipal gas plant under it, this city or town is required to buy all existing gas plants engaged in public supply within its limits, if the owners wish to sell. In like manner a city or town that has decided to establish an electric plant must purchase existing electric plants on the demand of their owners. Moreover, in a city or town where the gas and electric plants are under common ownership, the decision to establish a municipal plant for either gas or electrical supply

[1] House Document No. 436 of 1890.

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fixes on it the obligation to purchase all existing plants of both kinds, at the will of their owners. The price of each plant thus required to be purchased is determined, under the act, by one or more commissioners appointed for the special case by the Supreme Judicial Court, and their decision is subject to confirmation by this tribunal. That a town or city may not escape the obligation imposed by the act or force the owner of a gas or electric plant to sell at a low figure, it is provided that no rights granted to the owners of such plants for the use of the public streets shall be revoked while the question of municipal ownership is pending. In case of a town the obligation to purchase existing gas or electric plants within its limits is created when a vote to establish such a plant under the act has been passed by two-thirds of the voters, at each of two town meetings, held not less than two or more than thirteen months apart. In a city the obligation can only be fixed after a vote that it is expedient to establish a gas or electric plant has been passed by a two-thirds majority of the city council and approved by the mayor in each of two consecutive municipal years, and has subsequently been ratified at an annual or special municipal election.

In order to understand the full force of this legislation, in so far as it relates to the compulsory purchase of existing gas and electric plants, it is necessary to note that the cities and nearly all of the largest towns of the state were supplied with such plants under private ownership at the time of the passage of the bill. It thus became necessary to buy out very large private interests before municipal plants could be established in the localities where they were most desirable. But even this heavy obligation might not have operated as a very serious check on the establishment of municipal plants, had not the operation of the act shown that it required a much greater outlay to pay for existing plants than would be necessary to install new plants of equal capacity. As the law now stands, a city or town that wishes merely to install a plant for its electric street lamps, must purchase all the electric plants within its limits devoted to commercial lighting. Moreover, if the gas

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and electric systems happen to be under a single ownership in any place, all the gas and electric plants within its limits must be purchased before it may supply its own electric street lamps. The Act of 1891 and the subsequent legislation on the same subject, while conferring on cities and towns the right to establish municipal gas and electric plants, have thus operated as a restriction on municipal ownership as it might have developed under more favorable legislation. All of the large cities of the state, most of which petitioned through some of their inhabitants for authority to distribute gas and electricity for general use, are still without municipal plants in these lines. Even the great majority of the smaller places continue to be supplied with gas and electricity from private systems. The facts which follow seem to show that the relatively slight development in municipal systems has been due to the fear on the part of cities and towns of the enforced purchase of existing plants at excessive prices.

Though private gas or electric corporations have the power to force the purchase of their plants, when the necessary steps have been taken for municipal ownership, the cities or towns cannot force the private corporations to sell. On the other hand such corporations are free to continue the operation of their plants, and no rights granted in the streets can be revoked by the cities or towns. Strange to say, none of the private corporations have chosen to retain their generating plants in any of the eight cities and towns where these plants were located when municipal ownership was decided on. Even in the two instances where private corporations had only distributing apparatus in towns that decided on municipal plants of the same sort, the corporations elected to sell. Two towns have each bought a distributing plant formerly owned by a private corporation. Seven cities and towns have each bought both generating and distributing plants. One town, North Attleboro, refused to purchase a private generating plant within its limits, when municipal ownership was decided on, and the case was not taken to court, but the plant was moved out of the town. In three instances, those of Middleboro,

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Hingham and Hull, in 1893 and 1894, the towns reached amicable agreements with the owners of plants. In the other six cases, cities and towns have been forced to purchase existing plants at the suits of their owners. Even the three towns that reached amicable agreements for the purchase of plants were obliged to give the full prices demanded, or run the risk of suits at law. Since 1894 no mutual agreements between the owners of plants and the towns where they are located have been reached, the private corporations evidently finding it more to their advantage to bring suit. Three private plants were purchased by towns in 1894, and only five during the entire period since that year, when the practical working of the municipal-ownership law became evident.

The chief features of the movement toward municipal purchase are embodied in the following table.

YEAR OF PURCHASE.	NAME OF TOWN OR CITY.	GENERATING OR DISTRIBUTING PLANT.	BY AGREEMENT OR AWARD.
1893	Middleboro	Both	Agreement
1894	Hingham	Distributing	Agreement
1894	Hull	Both	Agreement
1894	Wakefield	Both	Award
1895	Chicopee	Both	Award
1897	Taunton	Both	Award
1897	Hudson	Both	Award
1898	Belmont	Distributing	Award
1899	Westfield	Both	Award

In order to bring out the relations between the prices paid by cities and towns for gas and electric plants, and the values and earning capacities of these plants, we will compare the amount of stock, bonds and notes outstanding, in the case of each of the corporations that owned the plants, with its net earnings during its last fiscal year of operation. By net earnings is here meant the difference between income and operating expenses, no allowance being made for interest, depreciation or dividends. In the cases of Hingham and Belmont no attempt is made to determine either the investment in or the earning capacity of the distributing systems purchased, because these

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systems form merely parts of much larger plants in other cities or towns. As will be shown, not one of the plants which cities and towns have been forced to purchase was earning enough above operating expenses to pay depreciation and dividends on the price paid for it.

It is probably impossible to determine with absolute accuracy from the public records what the investments in the several plants that have been sold to cities and towns really were. Since the year 1886 the law has required that the bonds as well as the stock of gas companies be issued only for cash or its equivalent. A like requirement extends to the stock but not to the bonds of electric companies. Since 1894 the stock and bonds of gas and electric companies are required by law to be issued only on approval of the state board of gas and electric light commissioners. Before that year it is well known that the stock and bonds of such companies were often issued to amounts far in excess of the value of the property. Much the greater part of the stocks and bonds noted here were issued before the law, requiring the approval of the commissioners, went into effect. The notes payable may have been issued to pay for construction or to make up losses in operation, and were probably applied to both purposes. It is practically certain that the sum of capital stock, bonds and notes payable issued by the companies here considered was materially greater than the cash and property put into their plants, at a fair valuation. But in order to put the investments of the corporations at the highest figures possible, the sums of the stocks, bonds and notes payable are taken for comparison with the amounts paid by cities and towns for the plants. The situation is exhibited in the tables on the following page.

A number of interesting features of the situation are revealed or suggested by these tables. In the first place the Middleboro corporation which was bought out by the town was clearly insolvent. The price which it accepted for its plant, by an agreement reached before the town had by its votes incurred the legal liability to purchase, was less than the amount of the outstanding bonds of the corporation, and in operating the

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plant there was a deficit of 2.2 per cent on even the low price paid by the town. In Wakefield, also, the company seems to have unloaded an unpromising property on the municipality. The price in this case was fixed by commissioners, and a hint as to the way in which the award was regarded by the town and

CITY OR TOWN.	STOCKS.	BONDS.	NOTES.	TOTAL.
Middleboro . .	$80,000	$80,000	—	$160,000.00
Hingham . .	—	—	—	—
Hull	60,000	60,000	$5,600.92	125,600.92
Wakefield . .	95,300	70,000	79,250.00	244,550.00
Chicopee . .	10,000	—	6,447.49	16,447.49
Taunton . . .	50,000	—	30,000.00	80,000.00
Hudson . . .	15,000	—	2,500.00	17,500.00
Belmont . . .	—	—	—	—
Westfield . .	75,000	—	9,525.00	84,525.00

CITY OR TOWN.	AMOUNT PAID FOR PLANT.	PERCENTAGE OF STOCKS, BONDS AND NOTES PAID FOR PLANTS.	NET EARNINGS OF COMPANY.	PERCENTAGE OF PRICES PAID FOR PLANTS EARNED DURING YEAR BEFORE SALE.
Middleboro .	$63,000.00	39.3	$1,407.31 [2]	−2.2
Hingham [1] .	12,000.00	—	—	—
Hull . . .	91,202.00	74.0	3,403.48	3.7
Wakefield .	144,680.00	59.2	1,729.47	1.2
Chicopee . .	27,000.00	164.1	643.83	2.4
Taunton . .	125,000.00	156.2	5,429.74	4.3
Hudson . .	15,300.00	87.4	1,091.44	7.1
Belmont [1] .	9,375.00	—	—	—
Westfield .	147,500.00	174.5	14,208.31 [3]	9.6

the company respectively is given by the fact that the town appealed from the commissioners' decision, while the company fought the appeal and forced the sale. In Chicopee the company demanded $39,930 for its property but the commissioners awarded only $27,000, which was, however, very largely in excess of the outstanding liabilities. But the figures in this

[1] Only a small part of the company's plant purchased.
[2] Loss in operation.
[3] Net earnings during eleven months.

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case are qualified by the fact that only part of the company's property was covered by the award, because the electric station and the foundations of the steam plant were on land that did not belong to the company and of which it had no written lease. The somewhat attractive showing made by the figures for Hudson, where the earnings for the last complete fiscal year were 7.1 per cent on the price paid by the town, loses something of its glamour in view of the sequel; for the plant purchased was found unsuitable for use by the town and a new plant was at once built at a cost of $17,000. Of all the cases scheduled in the tables that of Westfield alone appears really favorable to the municipality concerned; but even here the earnings of 9.6 per cent are an inadequate margin from which to meet interest, depreciation and dividends.

The last decade of the nineteenth century opened in Massachusetts with a general desire on the part of the people in both cities and towns for municipal ownership of gas and electric plants, as was shown by the numerous petitions to the legislature, mentioned early in this article. This desire on the part of towns and cities was met by the efforts of private corporations to secure legislation that should ensure their hold on these lines of work. That these efforts succeeded in the main, the facts here presented clearly indicate. Between the passage of the Municipal-Lighting Act of 1891, and the middle of 1900, thirty-seven cities and towns in Massachusetts passed first votes to establish gas or electric plants under it. Such a vote gives a city or town the right to know the price that the gas or electric company will demand for its plant. Only seventeen of these cities and towns passed the final votes necessary to fix the obligation to purchase existing systems and actually established plants. Including that of Danvers, the total number of municipal gas or electric plants in the state is eighteen. Of this number seven are in towns where there were no plants that the towns might by their action be forced to purchase. On the other hand, of the twenty cities and towns which, after a first vote to accept the act, failed to incur the obligation

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to purchase existing systems and to establish plants, all but one contained at the time of such votes private plants of one kind or another that they might become liable to purchase. As cities and towns have authority to require a definite proposition for the sale of private plants, if the company wishes to sell, after the first vote to establish a plant under the act has been passed, but lack such authority prior to this vote, it seems probable that the prices asked served in a number of instances to cool the ardor for municipal ownership.

Of course the prices demanded by private interests for their gas and electric plants are subject to revision by the commissioners and the court, but the prices thus far fixed by such decisions have hardly been such as to invite municipal investments. In 1893 and 1894 two towns, though obliged to purchase existing plants or forego municipal ownership, bargained for plants within their respective limits before the obligation arose to purchase, and paid for these plants 39.3 and 74 per cent respectively of the sum of stock, bonds and notes outstanding against each plant. In later years the corporations have seen their advantage under the present law, and have not been inclined to let go of their properties so easily. The corporations owning each of the other five generating plants, bought by towns and cities, in each case petitioned the court for commissioners to determine the price of the property. The prices awarded were, as appears in the foregoing tables, all relatively higher than those reached earlier by agreement, taking the percentage of the corporate liabilities as the gauge. Moreover, the net earnings of the plants acquired, as shown by the table, varying from —2.2 per cent to 9.6 per cent (the latter for only eleven months) of the prices paid by the municipalities, were obviously insufficient to provide for interest, depreciation and dividends.

It is hard to see how the awards of the commissioners have been based either on the investments in gas and electric plants, or on the earning capacity of such plants. With such examples before them it is little wonder that cities and towns of Massachusetts hesitate to enter on municipal ownership, in

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spite of the general desire for it. As long as the existing law can be kept in force by corporate interests, it is safe to say that municipal gas and electric plants will increase slowly in the large towns and cities of the state. With the present attitude of the public mind toward municipal ownership the existing law invites attack. Two bills to modify the Act of 1891 were introduced in the legislature of 1901[1]: one provided that if cities or towns are forced to purchase existing plants, the prices paid shall not exceed the cost of construction of such plants; the other authorized cities and towns to establish plants for purely municipal purposes without the obligation to purchase existing plants. Both of these bills failed of passage. Two bills were also introduced in the legislature of 1902, fixing the price which a city or town may be forced to pay for an existing gas or electric plant at the cost of construction for a new plant, less the depreciation of the existing system; but both these bills were reported on adversely by the committees.

In the near future the friends of municipal ownership hope, at least, to reduce the prices that cities and towns must pay for existing plants to fair valuations of their physical properties.[2]

BOSTON, MASS. ALTON D. ADAMS.

[1] House Documents 692 and 1306.

[2] The facts and figures in this paper are mainly derived from the Reports of the Gas and Electric Light Commissioners during the past ten years, and from the Journals of the Massachusetts House and Senate.

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EMPLOYERS' LIABILITY AND ACCIDENT INSURANCE.[1]

I.

AN illustration of the defective foreign-news service of the American press is afforded by the almost complete ignorance that exists here to-day concerning one of the most far-reaching social movements of the nineteenth century. Although the foremost topic of public discussion in the countries of Europe has lately been the problem of accidents to workingmen, the cable despatches published in our newspapers have scarcely given an inkling of the fact; and while England, France, Denmark and Italy within the space of eight months (from August 6, 1897, to April 9, 1898) all enacted comprehensive laws, based on entirely new principles, for the protection and indemnification of wage earners exposed to industrial risks, the only echo of this almost revolutionary movement that reached the readers of American journals was the report that the Swiss people had made use of the referendum to defeat a proposed law for compulsory sickness-and-accident insurance! The explanation of such apparent prejudice or indifference on the part of foreign correspondents may be left to others with a better knowledge of the cause; the present writer is concerned rather with the contrast between European and American principles of legislation in this important field.

[1] The principal authority followed in this paper is the *Seventeenth Annual Report of the New York State Bureau of Labor Statistics* (1899), Part II of which is devoted to the subject of "The Compensation of Accidental Injuries to Workmen." As this document is fully indexed, the present writer deems it unnecessary to make specific references. The *Report* also contains bibliographies of the best sources, to which may be added the following recent articles:

"Accidents to Labor," by W. F. Willoughby, in the *Bulletin of the United States Department of Labor*, January, 1901.

"The British Workmen's Compensation Act," by A. M. Low, *ibid.*

"Present Status of Employers' Liability in the United States," by S. D. Fessenden, *ibid.*, November, 1900.

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To begin with, it may be stated as emphatically as possible that European interest in the problem has not been due to any greater frequency of industrial accidents abroad than in the United States. On the contrary, as might be inferred by any one who stops to think of the incomparable energy, restlessness and fearlessness of American workingmen, of the relatively high intensity of work in American shops and factories, and of the vastly greater use that our people make of machinery, more workmen, relatively, are injured here than abroad. Statistical demonstration of this might be extended to an indefinite length; but it will be entirely sufficient to cite the fact that the American railways, as compared with the British, have *twice* the number of employees and every year kill *four times* as many of them, — the annual ratio of accidental deaths to total employees of all classes being 1 to 420 in the United States as compared with 1 to 950 in Great Britain. And if in Germany, with its 50,000,000 people, 8000 wage earners are killed and more than 400,000 injured every year, we are fairly safe in assuming that in the United States, with its 75,000,000 people, the army of employees annually killed or injured is fifty per cent greater. The problem of industrial accidents, then, exists as surely in the western hemisphere as in the older continent.

Two possible reasons may be advanced for the fact that the problem has attracted little attention here outside of purely academic circles, while in Europe it has agitated popular forums and extorted consideration from statesmen. The contrast probably rests, first, upon differences in the economic situation of workingmen on the two continents, and secondly upon differences of legal philosophy. European workmen, with their cramped position, their slender resources and the burden of militarism, have not been able to obtain an adequate reward for their toil, and hence are likely to be financially crushed by comparatively slight misfortunes and thereby thrown upon the public charities for maintenance. American workingmen, on the other hand, have earned and received high wages and have thus enjoyed what their European *confrères* would call financial independence; their savings or their insurance in fraternal

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orders have enabled them to withstand the effects of all but the most serious physical injuries without becoming a burden upon the public. Such relative financial independence, however, is becoming far less general in the United States, and it is in recognition of this fact that many of the larger railroad systems have established relief funds or pension departments through which the employer makes some contribution to the alleviation of distress among his injured employees. In the great stock yards, sugar refineries, iron and steel works and other industrial plants of American cities the foreign-born laborers earn so little money above their minimum requirements that a severe injury is almost sure to make them dependent upon public or private charity. The natural and logical remedy would be a law requiring all employers to act toward their injured workmen as liberal employers already act — to pay the necessary medical expenses and a moiety of the wage of the victim during the period of disablement from work.

That such a law has nowhere been enacted in America may be in part ascribed to the prevalent individualistic philosophy, which, refusing to look at the social effects, decrees that the wage earner, in accordance with tradition, must carry the ordinary risks of his occupation. It is assumed that, before accepting employment, the workman will calculate the relative advantages and disadvantages of his prospective occupation, including the probable danger to life and limb; and that his remuneration is thereupon so adjusted that his wages will include compensation for possible injury.[1] This legal fiction,[2] however, has no basis in fact; railroad trainmen, for instance,

[1] *Cf.* the opinion of Chief Justice Shaw of Massachusetts in the leading case of Farwell *vs.* Boston and Worcester, 4 Met. 49: "The general rule resulting from considerations as well of justice as of policy, is that he who engages in the employment of another for the performance of specified duties and services, for compensation, takes upon himself the natural and ordinary risks and perils incident to the performance of such services, and, in a legal presumption, the compensation is adjusted accordingly."

[2] It has been so characterized by Judge Earl of the New York Court of Appeals: "To enforce the supposed public policy, a fiction has been invented by which the servant is said to assume all the risks of the service in which he engages." — Crispin *vs.* Babbitt, 81 N. Y. 529.

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obtain no more than the wages of ordinary laborers, although one out of every eleven of them is seriously injured every year. Sailors, miners, quarrymen and other workmen in extra-hazardous trades are paid no more than laborers in other occupations excepting where the matter of skill enters into the question. To suppose that these wage earners ever seriously consider the matter at all, is to impute to them a measure of foresight and of economic strength in the wage bargain that is found only in the skilled artisan class, the "aristocracy of labor."

Nevertheless, the two reasons above recited (the relative economic independence of American wage earners and the prevalent individualistic philosophy) explain why in this country all practical efforts thus far made to deal with the problem of industrial accidents have been limited to proposals for altering the law of negligence so far as it concerns the relation of employer and employee. Premising that the employees assume the ordinary risks of their occupations, the law holds the employer responsible for accidents due to his own negligence, precisely as it holds any person liable to pay damages for such neglect of his duties as results in injury to other persons. But in one essential respect the common law of England and America has discriminated against the servant or employee: it has refused to maintain the doctrine of principal and agent in the case of accidents caused by negligence when the person injured is an employee of the person by whom, or upon whose behalf, the act of negligence was committed.

To illustrate: if a groceryman's delivery wagon runs down a pedestrian, who himself is not at fault, the pedestrian has the right of action for damages not merely against the driver but also against the principal, the groceryman, who may in fact have given the most precise instructions to his driver about exercising vigilance and respect for the rights of pedestrians. This ancient and firmly established principle of *respondeat superior*, whereby the principal must answer for negligent acts of his agent, rests purely upon the expediency of giving the victim a legal claim upon some party who is pecuniarily

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responsible — in other words, some one who can pay damages. It is, apparently, a universal principle of law, and its justification, aside from the motive of expediency just indicated, rests upon the idea that if a man finds it convenient or profitable to delegate any part of his work to others, he must still be ready to furnish satisfaction for injuries growing out of such work; if he fears to risk his property by thus giving bonds for the conduct of his agents, he has the alternative of doing his own work alone. Now the injustice of the American law of negligence, as applied to employees, lies in the fact that our courts have created an exception to the universal principle expressed in the maxim *respondeat superior* by refusing to hold the principal responsible for the negligence of an agent when the person injured is a fellow-employee. To recur to the illustration: if the supposed pedestrian run down by a careless driver of a grocer's wagon happened to be a clerk in the employ of the same grocer, he could not obtain damages from the principal.

Crudely illustrated, this is the famous "fellow-servant doctrine" which has naturally evoked antagonism on the part of American workingmen. It is a doctrine that is not tolerated in Continental courts, and it was largely abolished by statute in England more than twenty years ago. It has also been considerably modified either by legislation or by judicial decisions in most American commonwealths.[1] But workingmen look upon it as a burden even in its modified form, and to it is apparently due most of their present discontent. Will they be satisfied with its entire abolition? Is an employer's liability law, perfected on these lines, really a solution of the problem of accidents to labor? That question may most properly be answered by reviewing the experience of other countries.

[1] In recent years the courts have stretched the doctrine of "vice principal" so as to cover many co-employees of an injured workman. That is to say, if the agent whose negligence brought about the injury to a co-employee was performing any of the duties properly belonging to the employer, he is regarded not as a "fellow-servant," but as a "vice principal," or *alter ego*, of the employer, who thus becomes liable for damages.

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II.

In Germany, as in England and the United States, the problem of industrial accidents did not assume prominence until the advent of railways; but in the German states the legislature did not step aside and leave the courts to develop a law of employer's liability. On the contrary, railway construction had scarcely begun in Germany when in 1838 the Prussian legislature enacted a law which provided that every railway company should be liable for personal injuries to employees (as well as to passengers), unless it could prove in court that the accident was occasioned by the negligence of the victim or by an act of Providence; and still further to strengthen the employee's case, the law specifically provided that the risks inherent in the railroad business should not be considered as rendering accidents inevitable, and hence should not exempt the corporation from responsibility. This Prussian law of 1838 thus goes far beyond the demands of American workingmen at the present time, at least so far as respects railways, which are in truth the subject of most of the agitation; for it transfers the burden of proof from the shoulders of the injured employee to those of the corporation. It distinctly directs that the employer, and not the employee, is to assume the ordinary risks of the industry.

Upon the formation of the German Empire in 1871, this Prussian act of 1838 was embodied in a general liability law for the Empire, which also defined, though in less stringent terms, the liability of proprietors of factories, mines, quarries, *etc.* The enormous industrial expansion of Germany, following its consolidation under a strong government, rapidly transformed the small shops of handicraftsmen into great factories, in which the employer's responsibility for his workingmen was dissipated among numerous superintendents, foremen and others who assumed certain of his functions of control. The conditions of labor in factories and mines began to approximate those on the railways, and the earlier reform movements sought to extend the provisions of the railway liability law to the

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manufacturing industry and other employments. But farsighted economists — Schäffle, Wagner, Schmoller and others — deemed such a reform entirely inadequate, holding that, because of the difficulty of locating the negligence, the law of negligence could by no possibility be sufficiently perfected to secure for injured workmen proper compensation. This difficulty was set forth in the preamble of the accident-insurance bill of 1881.

> To burden the person injured with the requirement of furnishing proof of negligence on the part of the employer or his agents, transforms the beneficence of the law for the workingman into an illusion, in the majority of cases. The procurement of such evidence, sufficiently difficult in any event, is not seldom rendered impossible as respects some of the most severe injuries brought about by natural forces, as happens in mines, establishments with steam boilers, and factories for the manufacture of explosives. Herein the condition of the work-place, the implements and appliances, upon which the whole case of the workman really turns, is so altered by the accident itself as to be unrecognizable; while those persons through whose testimony alone negligence in many cases can be proven have been killed or injured by the accident. The injured, even if not, as is generally the case, parties to the suit, are left in such condition by the catastrophe as to be unable to give formal testimony.

Without entering further into the legislative history of the question, it will be sufficient to state that the economists, aided by Emperor William I and Bismarck, finally triumphed in the passage of the act of 1884, which made employers responsible for all accidents to employees in the course of their occupation except such as should be occasioned by the willful misconduct of the victims themselves. This minor exception is virtually all that is left in Germany of the law of negligence so far as it concerns employees.[1]

To comprehend fully the methods of the German law for indemnifying workmen injured at their work, one must consider an analogous law enacted two years earlier (1882), namely, the sickness-insurance law. This act requires the

[1] Of course employers may still be sued for negligence; but such actions are brought only when the negligence is so gross as to promise a considerably larger compensation than that afforded by the accident-insurance law.

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establishment of sick funds in all industries, one-third of the contributions to come from employers and two-thirds from the working people. Any employee injured while at work is cared for by the sick funds for the first *three months after the accident;* but if at the end of these thirteen weeks, he is still incapacitated, he is entitled to an allowance equal to two-thirds of his wages, besides the medical expenses, out of a fund maintained by the employers. If he dies at any time as a result of his injuries, his family is entitled to a yearly pension not exceeding sixty per cent of his wages.

In order to guard the employee against the possible loss of his compensation or allowance through the bankruptcy or failure of his employer, the law provides for the collective responsibility of employers; that is, all employers are grouped together into associations by industries (*Berufsgenossenschaften*), and each association pays the claims of workingmen employed by its own members. The members of each association are annually assessed, according to the size of their pay rolls and the hazard of their business, at a rate sufficient to pay the death claims, the benefits to temporarily disabled workmen and the pensions to entirely incapacitated workmen and the families of employees killed by accident. The assessments must also cover the administrative expenses of the association, which include the salaries of a large number of engineering and mechanical experts employed by the associations to inspect the factories of members and see that the best appliances are bought and used for safeguarding dangerous machinery. Briefly put, the German law requires every employer to join a mutual insurance company, which indemnifies his employees for all personal injuries sustained in the course of their employment, the question of negligence on one side or the other having nothing to do with the amount of such indemnification,[1] which is fixed by the amount of the employee's wages and, in case of his death, the number of surviving dependents.

[1] With the qualification that no compensation is paid when the injury is due to the victim's willful misconduct—which in practice has proved unimportant—and that the victim may sue for damages when the employer has been grossly negligent.

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The administrative machinery for determining the compensation is prescribed by the law; but, on account of limitations of space, cannot be described here.[1]

For eighteen years now this compulsory accident-insurance system has been on trial in Germany, and its success can no longer be seriously questioned. It has been successively extended by the law-making authorities, and when in 1900 it was thoroughly overhauled and revised the changes were wholly in the direction of enlarging its scope. The broad result is to be seen in the following facts: About 20,000,000 persons, or nearly two-fifths of the entire population and ten-elevenths of that part engaged in gainful occupations, are protected by the insurance system, and any one of these persons, in case of a disabling accident, may claim a living allowance as a right and not as a charity; each year about 100,000 accidental injuries are indemnified, of which one-half are cases of temporary disablement (exceeding, however, a duration of three months) and one-half cases of permanent disablement or death; about $20,000,000 are annually expended through this system, of which eighty or eighty-five per cent is actually paid to the sufferers, about two per cent being expended for the prevention of accidents, and the remainder representing the expenses of management. The actual burden of this insurance upon German industry cannot be determined, for the reason that permanently injured employees are not indemnified with a lump sum of money, but are pensioned with an annual, or quarterly, allowance for life. Nevertheless, the annual expenditures, which are almost identical with the assessed contributions of employers, have lately averaged only $1.22 per $100 of the annual wage roll, and this is a lower rate than any prevailing from 1892 to 1897. Of course the rate varies enormously from industry to industry, according to the relative risks of accident; it is about twenty-four times as great in mining as in the tobacco industry, which is the least hazardous of the manufactures.[2]

[1] *Cf.* POLITICAL SCIENCE QUARTERLY, VI (March, 1891), 43.

[2] In 1897 the amount actually paid in the indemnification of injuries was $1.78 per $100 of wages in mining, and only 8 cents in the tobacco industry.

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III.

The other countries of Europe had been as much concerned as Germany with the question of reforming the law of liability, but they postponed action in order to await the result of the German experiment. Only Austria, which is for the most part a German country, accepted at once the new principle of incorporating in the cost of production of manufactured goods, by the side of the allowance for wear and tear of machinery, an item for the wear and tear of human operatives. But the Austrian law of 1887, though it insures compensation for all injuries, regardless of the question of negligence, differs in many respects from the German law. It permits employers, for example, to deduct ten per cent of their assessments from the wages of employees, and it requires the capitalized value of each pension to be paid at the time of the accident.[1] Again, the collective responsibility of employers is secured, not, as in Germany, through associations for different industries, only the railroads having a trade association, but through seven provincial or district associations. Furthermore, the government itself does not undertake the business of insurance, although it establishes the rates. Additional variations from the German law can also be found in the scale of compensation, but these need not be entered into at this point.

The other Teutonic nations of northern Europe could not but be influenced by the long discussion of employer's liability and accident insurance in Germany and the final adoption of the latter principle. Within a few months after the enactment of the German law of 1884 parliamentary commissions were at work in Norway, Sweden, Denmark and Finland, gathering statistics of accidents, of the methods in vogue for alleviating distress in the families of the stricken workmen, *etc.* The

[1] It appears that the actuaries put the rate of the contributions somewhat too low when they calculated that the average assessment would have to be $1.40 per $100 of the annual pay roll; whereas, for the seven years 1890–96, the net charges amounted to $1.55 per $100 of wages. The premium required in certain dangerous industries also proved too low, and the next revision of the schedule of rates will result in many increases and but few reductions.

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Norwegian commission completed its labors and presented draft bills in 1890, and in 1894 the legislature fully accepted the principle of compulsory compensation for all accidents and enacted an accident-insurance law. This law more closely resembles the Austrian than the German act. Compensation begins four weeks after the accident and is fixed at sixty per cent of the victim's wages; in the event of his death the pension to his family is not to exceed fifty per cent of his average annual income. In Norway, as in Germany, the expenses of indemnification of injuries are to be paid by the employers without deduction from wages; but in Norway the state guarantees the indemnities and collects the assessments from employers through a state insurance office, the expenses of which are a state charge.

In 1895 Finland enacted a workmen's compensation law of less comprehensive scope. While it provides a scale of compensation and requires employers to insure their employees against accident through authorized companies or by depositing securities with the government, it does not grant compensation to employees injured through the fault of fellow-workmen or *vis major*. In other words, it does not cover the unavoidable mishaps which constitute the bulk of all industrial accidents.

The Danish parliamentary commission made its report in 1888, but, owing to differences of opinion as to the wisdom of a system of obligatory insurance, the legislature did not agree upon a law until 1897.[1] The action of Great Britain seemed to have a decisive influence in crystallizing sentiment in Denmark, as in the other Continental states. On account of the far-reaching influence of English policy, it is advisable to consider somewhat carefully the steps by which the British Parliament at last definitely abandoned employer's liability based upon the law of negligence and accepted the principle of compensation for all accidents.

[1] Sweden, the remaining Scandinavian country, did not enact an accident-insurance law until 1901.

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IV.

As we have already seen, the judge-made law of employer's liability, embracing the indefensible doctrine of common employment, had operated in England and the United States to the great injury of the English and American workmen. And the fact that the "fellow-servant doctrine" was upheld so much more rigorously by the English courts, dominated by the capitalistic House of Lords (the final court of appeal in Britain), as well as the greater relative importance of machine production, inspired in England a movement for legislative definition of the law of liability and led to the adoption of the Employer's Liability Act of 1880, which has served as a model for several American statutes. While this act removed some of the more unjust defenses utilized by employers to avoid the penalties of their negligence, it failed to give general satisfaction. Amendments were offered at nearly every session of Parliament and several commissions were appointed to examine into the question. Finally, in 1893, the Gladstone government accepted the views of the workingmen and introduced an employer's liability bill that was calculated to destroy the doctrine of common employment root and branch. This bill passed the House of Commons, but came back from the House of Lords with unacceptable amendments concerning the power of employers to contract themselves out of their liability by special agreements with their employees. The consequent defeat of the bill ended the prospect of legislation under the Liberals.

But the situation so urgently demanded reform that the Conservatives, upon their accession to power in 1895, could not decline to act, especially in view of their obligations to the Liberal-Unionist wing, which, through its leader, Joseph Chamberlain, had promulgated a really liberal labor program, including reform of the liability law.[1] The government bill, introduced at the session of 1896–97, went far beyond any of the proposals of the Liberal government by offering

[1] See Mr. Chamberlain's article in the *Nineteenth Century*, November, 1892.

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compensation for all accidental injuries, quite irrespective of the negligence of this person or that.

The debates upon this bill fill several hundred very interesting pages in Hansard. The average member of Parliament, who was likely to be an employer, could not at first understand why he should pay indemnification for injuries for which he was not to blame. But the history of employer's liability throughout the era of machine production had demonstrated the impossibility of locating the blame, since, as a matter of fact, the great bulk of industrial accidents are virtually unavoidable. Any person can see that the operator of a buzz saw is exposed to greater risks than a cigar maker, and no amount of care on the part of the employer or the operator will serve to equalize the risks. For the vast majority of accidents, therefore, the liability of an employer under the law of negligence affords no remedy to the victim. Striking evidence of this fact was adduced in the testimony taken by the Royal Commission on Labor in 1894, when one of the great accident-insurance companies testified that in 26,087 cases of accidental injury which it had indemnified under collective accident-insurance policies carried by employers, not more than 3026, or twelve per cent, would have been entitled to compensation under the law of negligence.

Now assuming that a liability law based on negligence would compel employers to pay compensation for that twelve per cent of the injuries to their employees, it could be easily demonstrated that the uncertainties, the expense and above all the bitterness of class feeling, incident to such legal conflicts, would frequently outweigh the advantages of the law. Such a law must of necessity be full of uncertainties, because it attempts to define the duties of employer and those of the employee, duties which are constantly shifted with the progress of invention and the adoption of improvements. One week a court may have held that it was not the employer's duty to provide certain safeguards for a machine because such provisions had not become a part of the usual customs and practices of the business; another week the same court might decide that such guards were necessary and reasonable. In

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one case, where scaffolding has given way and a workman has been seriously injured, it is decided that the foreman, acting for the employer, should have inspected the defective scaffolding; in the next case it may be held that the obligation of inspecting the scaffolding rested upon the employee himself. Numerous cases of fatal accidents also occur in which the evidence of negligence is destroyed and the workingman's family is thus deprived of their rightful indemnification, even though the law itself may be clear; such cases are of frequent occurrence among colliery explosions, where the witnesses perish along with all evidences of possible negligence.

If the uncertainty and expensiveness of legal actions for damages were not sufficient to deter an injured employee from proceeding against his employer, he would be deterred by the apprehension of losing employment. The official memorandum of the British Home Office summed up the defects of the employer's liability law from the view point of the workingman in the following single paragraph:

> The truth is that to the workman litigation under the act has more than its usual terrors. It is not merely that litigation is expensive, and that he is a poor man and his employer comparatively a rich one, it is that when a workman goes to law with his employer he, as it were, declares war against the person on whom his future probably depends; he seeks to compel him by legal force to pay money, and his only mode of doing so is the odious one of proving that his employer or his agents—his own fellow workmen—have been guilty of negligence. Add to this that the legal proof of such negligence is often extremely difficult. The broad result is that a legal claim for damages only answers where the injury is very great, and the workman is prepared to leave his master's service.[1]

If uncertainty and expensiveness made the law unsatisfactory to the workman, they did not make it satisfactory to the employer. Liability to pay damages for negligence did not lead to any correspondence between the penalty and the degree of culpability. The most criminal negligence might result in

[1] Appendix to the minutes of evidence taken before the Royal Commission of Labor (1894, c 7063–III A), p. 351.

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a trifling injury, compensated at the expense of a week's wages, while some trifling oversight in the selection of materials might lead to loss of life and heavy damage suits. Employers kept in their service an army of lawyers, whose remuneration would have afforded compensation to hundreds of injured employees. On the other hand, many a fairly disposed employer found himself prosecuted by professional "damage" lawyers or "shysters," who stepped in to prevent any peaceable arrangement between him and an injured workman. Mr. Chamberlain, for example, related the experience of a friend who told him that "in two cases which he was absolutely bound to fight and both of which he won, the costs amounted to more than any compensation ever given under the Employer's Liability Act."[1] That act — which, be it remembered, is substantially the law in America to-day — was characterized by Mr. Asquith, the Liberal leader, as "an elaborate series of traps and pitfalls for the unwary litigant, and productive of litigation which, in proportion to its difficulty and cost, is absolutely barren of result."[2]

It was probably the cold, hard fact of the expensiveness of futile litigation under the liability law that appealed more than any other argument to the conservative British capitalists and merchants who compose the House of Commons and induced them to adopt the new principle of compensation for all accidents.

Aside from the experience of foreign countries, — never decisive to an Englishman, — the country already had some evidence of its own as to the probable workings of the new system. After the passage of the Liability Act of 1880, there had grown up in England great insurance companies which made a business of relieving employers of suits for damages brought on behalf of injured employees, the premiums for such insurance being a certain percentage of the annual pay roll. These companies moreover did a real accident-insurance business on a similar basis, issuing to employers for a somewhat higher premium a workmen's collective insurance

[1] Parliamentary Debates, XLVIII (1897), 1465.
[2] *Ibid.*, XLIX, 753.

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policy. The statistics furnished by one of the largest of these insurance companies afforded the following instructive comparison:

	Liability Insurance.	Workmen's Collective Insurance.
Claims admitted	1,188	26,087
Claims abandoned	952	97
Claims litigated	327[1]	4
No claims made	7,750	
Total accidents reported	10,217	26,188

It thus appeared that of 10,217 injured employees only 1327, or thirteen per cent, could obtain compensation under the employer's liability law, while under the accident insurance policy all but an infinitesimal number were compensated. The contrast pointed the way to a new system of legislation whereby the compensation of accidents should be a mere business arrangement rather than a matter of law. The British Workmen's Compensation Act of 1897, like the German act of 1884, the Austrian act of 1887 and the Norwegian act of 1894, virtually makes the employer the insurer of his workmen against all accidents. In the words of Mr. Chamberlain, it says to every employer in the industries covered by the act:

> When you enter upon a business you must consider this compensation is as much a trade charge as is now the provision which you are called upon to make for the repair of machinery. You at present have to put aside every year a certain sum for the repair of the inert machinery, which is a factor in your business. Now, the human element in the business has to be considered, and in the case of accident what reparation you can make must be made as a charge upon the business.

The scale of compensation fixed by the law assures to a totally disabled workman a weekly benefit equal to one-half his average wages; to the family of a workman mortally injured, a lump sum equal to three years' wages (but not less than $730 or more than $1460). The disability allowance begins with the third week of disablement.

[1] Of these, 136 were won and 191 lost by workmen.

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In passing, it should be noted that the Act of 1897, while affording these new compensations to an injured workman, does not abolish his old rights of action against a negligent employer. On the contrary, he may sue his employer for negligence under the common law or under the Liability Act of 1880, and if defeated may still claim as a matter of right, not to be disputed, the compensation allowed him under the new act. Provided the workman is disabled from earning full wages for a period of at least two weeks, the only defense the employer can offer is that the accident did not "arise out of and in course of the employment," or that it was attributable to the serious and willful misconduct of the workman himself.

This is not the place to enter upon a discussion of the virtues and defects of the English Workmen's Compensation Act of 1897. Certain things about it, however, are clearly established:

1. The principle of compensation for all accidents has been permanently accepted in England; the only amendment made to the act has been one to widen its scope by extending it to agriculture. The occupations not as yet embraced in the law are domestic service, small workshops where no mechanical power is used, buildings less than thirty feet high, mercantile pursuits, trucking and navigation. It will be seen that the only industrial classes still outside the law that are exposed to heavy risks are seamen and fishermen.

2. Litigation, even in the beginning, when the law required interpretation, has been insignificant. In the first six months of its operation not a single litigated case was recorded in some of the principal mining districts, which, with a population of 1,500,000, had innumerable accidents. Probably the experience of the Bolton and District Operative Cotton Spinners' Provincial Association is indicative of the operation of the law. Its report for 1901 shows that since the act came into operation the claims of 640 injured members had been paid, of which only twelve, or less than two per cent, were the subject of litigation. Unofficial returns in other industries show similar results and indicate that the proportion of claims settled without litigation is over ninety-eight per cent.

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3. The cost of indemnification has been comparatively low, in spite of the high premiums demanded by insurance companies. In South Roxburghshire, where the insurance companies asked from 22½ to 37½ cents per $100 of the annual pay roll, mutual insurance associations were formed by the employers and indemnities paid on the basis of a premium of only 12½ cents per $100 of wages.[1] As yet the burden of the act, if indeed it has been a burden, has not made itself felt in the competition with foreign countries, most of which, indeed, have similar acts.

V.

The action of England in accepting the principle of compensation of all accidents seemed to bring to a head the discussion that had been going on in other countries for a decade or more. In the four years that have since elapsed, no fewer than nine states have enacted similar laws, including France, Italy, Spain, Holland and Sweden, as well as two of the Australasian colonies. The Danish act of January 7, 1898, has already been mentioned; like the English act, it makes insurance voluntary on the part of employers, but gives the injured employee a prior claim on insurance due to the employer in case of accident. The accident benefit, which does not begin until the fourteenth week, is fixed at sixty per cent of the victim's wages, and the indemnity in case of his death is equivalent to four years' wages.

Italy followed with the act of March 17, 1898, which made insurance obligatory indeed, but left employers the option of insuring in authorized companies, or in mutual associations, or by the deposit of securities with the government. The disability allowance begins on the sixth day after the accident and is equal to fifty per cent of the victim's usual wages. In case of permanent disablement or death, the indemnity is a lump sum equal to five years' wages.

[1] See M. Barlow, "The Insurance of Industrial Risks," *Economic Journal*, XI (September, 1901), 348.

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About the same time France was enacting a workman's compensation law. The question had been before the legislature at every session for years, but the Senate and Chamber of Deputies had not previously succeeded in agreeing upon a bill. Now the influence of the English act, combined with the exigencies of local politics and the approach of elections, resulted in the act of April 9, 1898. Under this law the accident allowance begins on the fifth day after the accident, and for temporary disablement is fixed at one-half the victim's average wage, while for permanent incapacity it is two-thirds of his wages. In event of his death pensions to surviving members of his family are not to exceed, in the aggregate, sixty per cent of his annual wage.

The treatment of the insurance problem in this act is peculiar to France, and is the result of a compromise between the Senate and the Chamber of Deputies. Instead of compelling employers to carry insurance for the protection of their employees or to carry insurance against the possibility of their own bankruptcy or failure, the French government guarantees the payment of accident benefits and indemnities. For this purpose a special guarantee fund is to be accumulated by means of a small addition to the regular business tax in the case of concerns subject to the law. This novel experiment will be watched with interest in other countries. While it might easily lead to a state insurance office, France has been noted for the strong development of employers' mutual associations, and it is generally hoped that these may continue to gather strength under the new régime.

No new compensation acts were recorded in 1899, but on January 30, 1900, Spain joined the other industrial countries with such legislation. The Spanish act is rather limited in scope, as it does not require the compensation of inevitable accidents (those caused by *vis major*) and in that particular more closely resembles employer's liability laws. But it provides a definite scale of compensation, the temporary allowance to an injured employee being one-half his usual wages, and the indemnity for permanent disability being a lump sum

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equal to two years' earnings. In the case of fatal accidents the indemnity to the victim's family is likewise two years' earnings or, at the option of the employer, pensions equal to not more than forty per cent of the workman's income.

The New Zealand act of October 18, 1900, and the South Australian act of December 5, 1900, are modelled so closely after the English act as to call for no special consideration.

The accident-insurance law enacted by Holland, January 2, 1901, grants perhaps the most liberal terms to the workmen of any of these acts. The allowance, which begins on the day following the injury, is to be seventy per cent of the victim's regular wage, and that is also the ratio in case of permanent (and total) disability. In case of death, the pension to his family is to be sixty per cent of his earnings. Insurance in authorized private companies or the government insurance office is obligatory unless the employer prefers to deposit securities with the government for the payment of compensation to his injured employees. One peculiar feature of the Dutch act is the discrimination against drunkenness; the law provides that if the accident is due to intoxication, the victim shall receive only one-half the usual allowance, and his heirs or dependents none.[1]

On February 21, 1901, the Kingdom of Greece adopted a workmen's compensation act for mines, smelting works and certain quarries, which is peculiar in that one-half of the indemnities due to permanent disabilities and fatalities are to be paid by the Miners' Provident Fund, which is administered by the government. But as the fund is maintained by the taxation of mines, *etc.*, the burden really falls upon the industry after all. The allowance for disablement is fifty per cent of the usual wage.

The Swedish act of April 24, 1901, is not so liberal as the earlier Norwegian act, and the scale of compensation differs from all others in that it fixes an invariable sum as the disability allowance or benefit, instead of a percentage of the wage earned

[1] The Dutch law is summarized in the *Bulletin of the United States Department of Labor*, May, 1901, pp. 190–193.

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by each victim; nor does it require indemnification of injuries occasioned by the willful misconduct of third persons, providing they do not exercise authority. By opening the door to disputes respecting the negligence of certain persons and the responsibilities of others, the act thus embodies the usual defect of employer's liability laws, namely, it does not avoid enormous expenses for litigation.

Switzerland is still debating schemes of accident insurance, having accepted the principle more than ten years ago in the form of a constitutional amendment. After long preparation, the federal legislature in 1899 passed a compulsory sickness-and-accident insurance law which was to go into force January 1, 1903; but on the referendum vote in 1900 the law was rejected by a majority of two to one. It seems probable that new projects will be less comprehensive in scope. In the meantime the Swiss have a very liberal employer's liability law, enacted some twenty-five years ago, which, like the Prussian law of 1838, places the burden of proof upon the employer and makes him liable for all injuries, unless he can prove in court that the accident was caused by the act of God or the negligence of the victim.

Russia has a similar law applying to railways and steamships, and is therefore in a more advanced position than the United States.

Belgium is the only other industrial nation of Europe that has not accepted the principle of *risque professionnel*. While a very successful organization of mine owners in Belgium has furnished at its own expense accident aid to injured miners since 1840, interest is by no means wanting in a national accident-insurance system. The ministry itself prepared and introduced a bill in 1898, after the adoption of workingmen's compensation acts in England, France and Italy; but the bill was referred to a commission, and before it was reported the legislature was dissolved and a general election held (1900). Belgium having already enacted an old-age pension law, it can safely be premised that the problem of industrial accidents will not long await a solution.

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VI.

The preceding review of European experience with the problem of industrial accidents ought to throw some light upon the probable course of legislation in the United States. Even should the agitation by our workingmen for the statutory abrogation of the obnoxious fellow-servant doctrine prove entirely successful, it will bring us only to the first stage in the evolution of negligence law into accident insurance — the stage reached by England twenty years ago, after the enactment of the Employer's Liability Act of 1880. This act constituted indeed an improvement upon preëxisting conditions; but as a final solution of a large problem it was a flat failure, or, as Mr. Asquith termed it, "a scandal and a reproach to the legislature." We have already sketched its breakdown and noted that its fatal defect consisted in requiring an enormous outlay on the impossible task of locating the blame for the accidents of modern industry. The futile litigation which, on account of its expensiveness, finally convinced Parliament of the failure of negligence law as a remedy for the injuries of employees is characteristic of the United States at the present time. And what is the logical result? The courts, in order to discourage suits and thus restrict the volume of litigation, have betrayed a tendency to throw out cases on technical grounds or to treat lightly the responsibility of the employer. The authors of one of the leading American text-books on the law of negligence plainly declare that

> it has become quite common for judges to state as the ground of decisions, the necessity of restricting litigation. Reduced to plain English, this means the necessity of compelling the great majority of men and women to submit to injustice, in order to relieve judges from the labor of awarding justice. . . . The law of master and servant in its relation to the law of negligence affords perhaps the most striking example in the last half century of gross injustice done by this disposition to restrict responsibility and suppress litigation.[1]

It is difficult to believe that any person at all familiar with the operations of the British act of 1880 can look for any decided

[1] Shearman and Redfield on Negligence (1898), pp. iii, vi.

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improvement in American conditions through amendments to the law of negligence.[1] When, in 1893, the Liberal party in England sought to improve the Act of 1880 without abandoning the foundation principle of negligence, the attempt was defeated partly because the bill came to be known not as an Employer's Liability Bill, but as a "Lawyer's Employment Bill." This satirical appellation is really descriptive of all legislation on the present subject that aims to rest the responsibility of employers on the ground of negligence.

The term may be said to apply also to a more advanced type of liability law, which, though it has not as yet been proposed in the United States, was adopted in some European countries in the first half of the nineteenth century; namely, the legislation under which the burden of proof of negligence was shifted from the workman to the employer. As long ago as 1838 the Prussian law required a railroad company to pay damages to injured employees unless it could go into court and there produce legal evidence that the accident was caused by *vis major* or by the negligence of the injured workmen. This is still the law in Switzerland for all mechanical industries, and in Russia and Hungary for transportation companies. But none of these countries has been satisfied with such a law, and all of them have either abandoned it already or are preparing so to do.

The third stage in the evolution of accident legislation is reached when a community has once grasped the principle of *risque professionnel*, — the principle, namely, that every trade and occupation has its own risks or dangers, and that, as the bulk of the accidents therein are unavoidable, they should be paid for out of the profits of that trade and not be saddled upon the families of individual workmen. The demonstration of

[1] It is doubtful if the American statutes modelled upon the British act of 1880 have brought about any perceptible improvement over the common law. This much, at least, is true: the liability insurance companies charge employers no heavier premiums in Massachusetts, which since 1887 has had a "model" liability law, than in the other New England states, which have enacted no such laws. The inference is that disabled Massachusetts workmen get no more compensation than their comrades protected only by the common-law rules.

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the truth of this principle waited upon the collection of comprehensive statistics; but since the establishment of accident-insurance systems in several countries, such statistics abound. It will be worth our while just to glance at some of the best of them:

ACCIDENTS IN AUSTRIA, 1890–94.

		NUMBER.	PERCENTAGE.
Fault of victim	Imprudence and gross negligence	10,937	22.60
	Disobedience of rules or neglect to use safeguards	1,563	3.23
	Willful misconduct	7	.01
Fault of employer	Defective plant	413	.85
	Omission of safeguards	218	.45
	Gross carelessness	53	.11
Fault of third person		762	1.57
Unforeseen contingencies		33,976	70.20
Unknown		471	.97
		48,400	99.99

These statistics extend through five years and embrace nearly 50,000 accidents to employees. It appears that fully seventy per cent of the accidents were declared to be unavoidable by the government officials who investigated them, and whose judgment, since the indemnities had to be paid without reference to the cause of the casualty, may be regarded as wholly unbiased.

It must be clear, upon reflection, that the conditions under which modern industry is carried on preclude the possibility of explaining every accident by somebody's negligence. This much was dimly understood when various countries took the first step of shifting the *onus probandi* from employee to employer. If, now, the employees are not to blame for the innumerable injuries to which they are subject, why should they be made to bear the financial burden of those injuries? Why should not that burden be distributed over the community instead of being concentrated upon a certain number of families who, in any event, will have to bear the physical

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and mental suffering involved in the death, crippling or maiming of men? The risk of fire is undeniably greater in a gunpowder mill than in a brewery, but the owner of the mill does not bear the burden by contenting himself with lower profits than the brewer's; he simply pays for the greater risk by higher rates of fire insurance and passes the cost on to the consuming public in a higher price for his product. If the additional expense imposed upon a gunpowder manufacturer through the more frequent losses by fire can be thus recouped from consumers, why should not the expense of indemnifying his workmen for accidents be likewise made a part of the cost of production, and thereby transferred to the community at large? Only one thing will prevent such shifting of the burden, and that is, the ability of competitors to put their goods on the market without incurring like charges. Hence the law must require all competitors in a given trade to make the same compensation for the same injuries. This is what Europe has done; by compelling employers to compensate injured employees according to a fixed scale it has taxed the community, through higher prices of goods, for the support of its injured members.

Many minds bred in the philosophy of individualism will undoubtedly see in such legislation nothing but injustice to the employer. In reality such legislation is in strict conformance with the innermost spirit of English and American common law. It recognizes the existence of undeserved distress among workingmen and undertakes to alleviate their suffering by giving them a claim upon some person who is pecuniarily responsible. And that is precisely the principle embodied in the time-honored common-law rule that the principal is liable for the acts of his agent. No matter how blameless the principal or how blameworthy the agent, a third person aggrieved by an act of the agent is entitled to damages from the employer. The only possible justification of such apparent injustice is social expediency — the expediency of giving to an injured man a claim upon some person who is able to pay compensation. The reasoning used by the courts

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to justify this practice of making one man pay damages for the negligence of some one else is like this:

> If a man chooses to carry on the operations of his life and business by having others to do the work for him, he can only be allowed to do so on the terms of guaranteeing the capacity of his servants to answer for acts and defaults committed by them in the course of the work he has ordered them to do.

The course of reasoning thus followed to justify the principal-and-agent theory of liability also justifies the workmen's compensation acts adopted by all the leading countries of Europe, which require the employer to assume all the risks of the employment which he calls into being. But while the employer makes the primary payment, just as he pays for the wear and tear of his machinery or the loss of his plant by fire, the consumers ultimately pay the cost. The alternative to such a general distribution of the financial burdens of industrial accidents is the present method, by which the entire burden is put primarily upon the poorest classes and, when it crushes them, to the damage of the community, is at last tardily assumed by the latter, through the public charities.

While all of the principal European nations have, by the recognition of such social obligations, reached what we have designated as the third stage in the evolution of accident legislation, many of them have advanced to a fourth stage. In England, Denmark and Spain the legislature was content to prescribe the compensation which an employer should pay for the injury of an employee. It did not furnish to the injured employee any security for such payment further than the usual liens upon the employer's property or upon any insurance money due him. The omission might prove a serious one upon occasion; for example, when a great colliery explosion kills scores of workmen the resulting indemnities would almost inevitably bankrupt the employer unless he had taken out an accident-insurance policy upon his mine. And on the Continent, where indemnities usually take the form of pensions rather than cash or lump payments, the possible bankruptcy or failure of an employer is an ever-present contingency. In

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order to guarantee the payment of these indemnities the countries outside of the three mentioned above have resorted to compulsory insurance. Germany, the pioneer in the whole movement, adopted, as we have seen, the simple expedient of the collective responsibility of employers organized by industries. Austria employs the same system, except that the employers' mutual associations are organized by districts or provinces rather than by industries. In Italy and Finland employers may transfer their liabilities to such mutual associations; otherwise they must carry accident insurance in the state insurance office or authorized companies, or deposit securities with the proper state officers. Holland allows only the three latter alternatives, while Norway has gone still farther and made its state insurance institution the sole means of collecting premiums from employers and paying indemnities to workmen. France, finally, is trying the original method of giving injured working people a government guarantee of their pensions, through the proceeds of a special tax upon the establishments subject to the law.

Should the United States, or any of the states, enact a workmen's compensation law, one would expect the example of England rather than the Continent to be followed, at least until the impracticability of leaving the matter of insurance to the initiative of the employer has been fully demonstrated. And while the genius of America favors voluntary rather than compulsory insurance, the private institutions to furnish such insurance are already developing. Should Congress enact a law requiring interstate carriers to compensate employees for all injuries of their employment, it would find many of the largest systems already provided with insurance institutions in the form of relief funds, which, under government supervision, would serve their purpose admirably. On the other hand, should the individual commonwealths enact such compensation laws for all mechanical industries, they would find already in existence a large business in liability and accident insurance, which is being transacted by private companies. These companies are now issuing to employers workmen's collective

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policies that promise the payment of stated sums for certain definite injuries; for example, in the event of death, or the loss of two eyes or limbs, a sum equal to one year's wages, not exceeding $1500; for the loss of one limb, a sum equal to one-third the above. Such blanket policies would be issued by many companies if public statutes required the compensation of accidents upon an established scale; and as insurance companies are already subject to public supervision, it would involve the introduction of no new principle to require their accident-insurance policies to conform to certain standards that might be embodied in a workmen's compensation act.

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THE ECONOMIC INTERPRETATION OF HISTORY. III.

VIII.

THUS far I have set forth the theory of the economic interpretation of history and have studied some of the objections that are commonly advanced. There still remain among the criticisms most frequently encountered two points which seem to be somewhat more formidable. Of these perhaps the more important is the one that figured fourth in our original list,[1] — the objection, namely, that the theory of economic interpretation neglects the ethical and spiritual forces in history.

It must be confessed, indeed, that the attempts thus far made by the "historical materialists" to meet the objection have not been attended with much success.[2] On closer inspection, nevertheless, this criticism also turns out to be in some respects less weighty than has often been supposed. For what, after all, is the realm of ethical or spiritual forces? To answer this question it is necessary to distinguish between the existence of the moral law and its genesis. The failure to draw this distinction is largely responsible for the confusion of thought which still prevails.

From the historical point of view it no longer admits of reasonable doubt that all individual ethics is the outgrowth of social forces. Moral actions are of two kinds, — those which

[1] POLITICAL SCIENCE QUARTERLY, XVII, 88.

[2] This is true not only of the Germans, but of the English, like Bax, and of the French, like Labriola, Deville and Lafargue. *Cf.* especially Mehring, Die Lessing Legende, p. 463, and the articles in *Die neue Zeit:* by Bax, vol. xv, pp. 175, 685; by Kautsky, vol. xiv, p. 652, and vol. xv, pp. 231, 260; by Bernstein, vol. xi, p. 782. Bernstein has also treated the subject in his more recent books.

As to the French socialists, see Labriola, Essais sur la conception matérialiste de l'histoire (1897); Lafargue, Idéalisme et matérialisme (1895); and Deville, Principes socialistes (1896).

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directly affect other individuals, and those which primarily affect only one's self. In the first class, comprising to-day the great mass of activities to which we apply the term ethical, the sanction was originally social in character. The conception of sin or immorality is not the primary conception. Historically we first find crimes and torts, that is, offenses against society as a whole or against the individuals comprising society; it is only at a much later period that the idea emerges of an offense against God or against the moral law as reflected in one's conscience. When the conception of sin was once reached it was indeed gradually broadened so as to include the other offenses, until to-day the commission of either crime or tort involves a sin. But historically sins were not recognized as such before torts and crimes.

Among brutes there is in all probability no such thing as morality, no conception of good or evil.[1] The female may protect her young through instinct; but to maintain that this is a moral action is, to say the least, premature. It no doubt conduces to the perpetuation of the species, and thus is a powerful factor in natural selection; but there is nothing moral about the action unless we are willing to apply the term "moral" to every act — whether instinctive or volitional — that makes for the permanence of the species. Morality in its origin indeed implies utility; but utility does not necessarily connote morality. Even if we predicate morality of animals, however, future investigators will no doubt explain its origin on very much the same lines as that of human morality.

For with the institution of human society we are on safer ground and can trace the glimmerings of a moral development. In the primitive peoples that still exist in almost the lowest

[1] The reason why it is not safe categorically to deny the existence of morality among animals is that the older contention of an essential psychical difference between man and animals has broken down before the flood of recent investigation. Comparative biology has proved that psychological phenomena begin far down in animal life. Some writers even profess to find them among the very lowest classes of beings — so low indeed that it is even doubtful whether they belong to the animal or the vegetable kingdom. For a popular presentation, see Binet, The Psychic Life of Micro-Organisms (1894). Binet's views, however, are not shared by the more conservative biologists.

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stages of savagery the only offenses that are recognized are even to-day offenses against the horde or clan, that is, what we should call public offenses or crimes. Treason, incest and witchcraft are the three great original crimes that are almost universally found. They are offenses against the community, because they imperil, in the estimation of the people, the very existence of society. At first there is no idea of sin apart from these offenses. The words "good" or "bad" are invariably applied only to actions affecting the social group. The very conception of wrong is a social conception. Certain actions come to be considered wrong because they are socially injurious. They are punished by society as a whole, and the cause of their punishment is to be found in the consciousness of society that they are infractions of the fundamental social customs which have been so laboriously developed. For these customs are the

> teachings of mother nature drilled into countless generations of savage ancestors. They are lessons in social necessity, in social selection, where failure to learn or refusal to obey means the inevitable destruction of the social group — means social death.[1]

What has been said of crimes applies also to torts. The earliest offense of the aboriginal savage against his comrade carried with it no more moral implication than does to-day the killing of one animal by another. Passionate action and retaliation were originally with men, as they are still with brutes, the form assumed by the desire for physical mastery. The animal struggle for existence is neither moral nor immoral — it is unmoral. As soon, however, as the offense of man against man was taken notice of by society, as soon as the retaliation was regulated by social custom or law, the punishment was invested with a social sanction, and the act began to be regarded as reprehensible. When human beings came to see that certain actions directed against their fellows were followed by social reprobation or by individual vengeance resting on social approval, it did not take long to learn that if they valued their

[1] Hall, Crime in its Relation to Social Progress. Columbia University Studies in History, Economics and Public Law, XV (1902), 55.

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existence in society they must refrain from such actions. In the contest of man with man each individual always has a chance of victory ; he therefore feels no certainty that a given act will be followed by any baneful consequences to him. But against a social group, the individual is powerless and his opportunity for escape from punishment is slight.

In the course of ages social customs grow so rigid that any deviation from the habitual usage comes to be regarded not only as peculiar but as positively harmful, and therefore reprehensible. The fear of social disapproval and the hope of social approval become the forces which lead to the original ideas of evil or good as applied to the social actions of the individual.

Whether the conception of tort or that of crime is the earlier historically, need not be discussed here. Most writers assume that torts precede crimes ; and it is undoubtedly true that many torts are gradually transformed into crimes. On the other hand, it is almost equally certain that some crimes have preceded torts. Adultery was a crime as incest before it was a tort; deception was a crime as treason before it was a tort. However that may be, the point of importance for us is that both torts and crimes are offenses with a social sanction, and that before this social sanction existed there was no such idea as that of sin or immorality applicable to the actions of man to man.

The teachings of language itself afford a clear indication of the social origin of the conception of morality. The word "ethical" is derived from ἦθος, which means social custom or usage; just as "moral," which Cicero tells us[1] he coined in imitation of the Greek, is derived from *mos*, denoting precisely the same as ἦθος. So also the German term for moral, *sittlich*, is derived from *Sitte*, or social usage. It is society which has set the original imprint on the very conception of morality.

Not only is the idea of morality an historical product, but the content of morality changes with the state of civilization or with the social class. Homicide was at one time as little immoral as the killing of one animal by another is at present;

[1] Cicero, De Fato, cap. i.

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it was simply unmoral. Even to-day it is not immoral if committed by a soldier in warfare; it becomes murder and sinful only when the same individual acts in some other capacity than that of a member of the army. Again, with reference to some acts it is not quite clear whether they are right or wrong. For instance, the deception practiced by General Funston to entrap Aguinaldo is declared by some to be not wholly wrong because it scarcely, if at all, violated the social usages of civilized nations in warfare — provided, that is, that we are willing to confess that there is a difference between civilized and uncivilized warfare. On the other hand, the looting by some of the allies of the treasures in Pekin and Tien-tsin is generally conceded to be wrong, because it has recently become a custom reprobated by the social conscience of the most civilized peoples. Competition is still the rule in business life: economists call it neither moral nor immoral. But competition between members of the smaller social group known as the family is no longer deemed defensible, because it has long since been recognized by society at large that social welfare would, on the whole, be furthered by the practice of family coöperation. The taking of private property without compensation is ordinarily considered wrong; but when a man's house is blown up to check a conflagration, the action is neither morally nor legally wrong, because of the overmastering social considerations.

Thus the conception of right or wrong does not attach invariably to any particular action, because the same action may, under different circumstances and as applied to varying social stages, be both right and wrong. Since social considerations make the social actions of the individual right or wrong, the idea of good or evil itself is a social product.

What we have thus far said is true primarily of the social actions of individuals — of the acts of man to man. The principle, however, is equally applicable to the second class of moral actions referred to above — those, namely, which seem at first to affect the individual only. An individual, for instance, may be guilty of some particular practice upon

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himself, which we popularly declare to be not good for him, or a vice. Properly speaking, however, all that was originally meant was that it was not conducive to his physical or material welfare. Whiskey is not good for an ordinary child; whiskey is good for an invalid. In the original conception of good there is no idea of morality — of right or wrong. If an animal gorges itself to repletion, we do not ascribe any moral quality to the action. When the isolated savage first mutilated himself there was no thought of anything right or wrong, but only of what might be the physical or material consequences, irrespective of the fact whether these consequences might be brought out by natural forces or by the interposition of some supernatural spirit or demon. Just as an individual called those things good which promoted his material welfare, so society called those things good which contributed to its continued existence. As soon as the idea of social advantage, however, forces itself through, we reach the conception of morality. An action is now reprobated or admired according as it conduces to the social welfare; and long-continued custom makes the individual conform his actions and ideas to this social standard, *i.e.*, creates in him the feeling of right or wrong.

Thus what is good physically for the individual becomes good morally only when the social test has been applied. Since this ethical connotation is the result of social forces, it is clear that acts which had originally only a physical significance for the individual gradually acquired an ethical significance because of the assumption that they would lead to certain social consequences. A member of modern society who will continually gorge himself will acquire certain characteristics that will make him distasteful to his fellow men, or that will serve as a bad example to others. In either case it is the social considerations that attach an ethical significance to what is at bottom a mere individual physical act. It is only when men have learned to live in society and when they have come to fear that some individual practice will react upon their ideas or their actions in relation to other individuals, that they learn to attribute a moral quality even to acts which at first blush seem to

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bear no relation to any one else. The same is true of the actions of men toward animals. The killing of an animal as such is in itself neither good nor bad; but cruelty to animals is reprobated because of the probable effects on the character of the human being who commits the act. Thus all acts of the individual, whether they seem to affect himself alone or others, become good or bad only as the result of social considerations.

All individual morality is the outcome and the reflex of social morality. Conscience itself, or the ability to distinguish between good and bad, is the historical product of social forces.[1] We must therefore agree with Sutherland when he defines the moral instinct as "that unconscious bias which is growing up in human minds in favor of those among our emotions that are conducive to social happiness."[2] We must equally subscribe to his statement that

there is no foundation of any sort for the view maintained by Kant and Green and Sidgwick, with so many others, that this inward

[1] The theory of the social origin of morality has been brilliantly worked out by von Ihering in the second volume of his masterpiece, Der Zweck im Recht (1883; 2d ed., 1886). Von Ihering made no attempt to apply the theory to the general doctrine here under consideration. In English literature the earliest treatment of the subject is found in Darwin's Descent of Man, ch. iv. For an interesting adumbration of the theory of the social origin of morality, *cf.* the brilliant but very incomplete passages of W. K. Clifford in his articles "On the Scientific Basis of Morals" and "Right and Wrong," published originally in 1875 and reprinted in his Lectures and Essays, II (1879), esp. 111, 112, 114, 119–123, 169, 172–173. The admirable work of Alexander Sutherland, The Origin and Growth of the Moral Instinct (1898), bases the development of morality on the growth of sympathy through the family. Thus he tells us that "from the usages that grew up within the family sprung morality; from those that sprung up between the families grew law," II, 138; or again, "True morality grows up within the family," II, 146; or again, "Moral rules as to bloodshed, honesty, truth, chastity are all, by birth, of family growth," II, 151. Sutherland forgets, however, that in early society it was not the family in the modern sense, but the horde, the clan and the tribe that formed the unitary social groups. Sutherland's book, nevertheless, is the first one in English clearly to point out that the (social) utilitarian theory of ethics has nothing "low" or "sordid" about it, but is really compatible with the most idealistic view of the universe. For the earlier and cruder opposition on the part of the intuitionists, see Miss Cobbe's "Darwinism in Morals," *Theological Review* (April, 1872), pp. 188–191.

[2] *Op. cit.*, II, 306.

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sense [conscience] is innate — a supernatural, mysterious and unfailing judge of conduct. On the contrary what society praises, the individual will in general learn to praise, and what he praises in others he will commend in himself.[1]

Whatever truth there may be in the intuitive or transcendental theory of ethics as a part of the cosmic scheme, there is no doubt that morality as applied to human beings is the result of a slow unfolding, in which social forces have played the chief rôle.

Such is the origin of the moral sense; its existence and activity are undoubted facts of human life. It exerts a profound influence on the individual because it is the crystallization of centuries of social influences. So slow, however, has been the accumulating force of these influences that the individual is utterly oblivious of its social origin and importance. But, although conscience exists as a separate category, it does not lead an entirely independent life. It is like instinct with animals: ages of dearly bought experience have served to put an almost indelible imprint on animal habits, until a certain course of action is followed instinctively.[2] The imprint, however, is not quite indelible. Just as the instinct is in its origin an historical product, it will inevitably be slowly moulded by future experiences. The instinct to preserve life remains; but the particular method which is instinctively followed changes from time to time. The instinct persists, but its form is modified. So the fact of moral consciousness in man and the existence of the ethical and spiritual life in civilized society are undoubted; but the content of this moral consciousness changes with the same forces that originally gave it birth.

[1] Origin and Growth of the Moral Instinct, II, 72.

[2] This is not the place to discuss the various theories of instinct. A popular discussion may be found in Alfred Russell Wallace's Darwinism, p. 441, and a more technical one in Weissmann's Essays on Heredity and in C. L. Morgan's Habit and Instinct. It will suffice here to quote from Romanes: "There is ample evidence to show that instincts may arise either by natural selection fixing on purposeless habits which chance to be profitable, so converting these habits into instincts without intelligence being ever concerned in the process; or by habits, originally intelligent, becoming by repetition automatic." — Mental Evolution in Animals, p. 267.

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It would, therefore, be absurd to deny that individual men, like masses of men, are moved by ethical considerations. On the contrary, all progress consists in the attempt to realize the unattainable — the ideal, the morally perfect. History is full of examples where nations, like individuals, have acted unselfishly and have followed the generous promptings of the higher life. The ethical and the religious teachers have not worked in vain. To trace the influence of the spiritual life in individual and social development would be as easy as it is unnecessary. What is generally forgotten, however, and what it is needful to emphasize again and again, is not only that the content of the conception of morality is a social product, but also that amid the complex social influences that coöperated to produce it the economic factors have often been of chief significance — that pure ethical or religious idealism has made itself felt only within the limitations of existing economic conditions.

The material, as we have seen, has almost always preceded the ethical. Individual actions, like social actions, possessed a material significance long before they acquired an ethical meaning. Etymology helps us here as it did in the discussion of the meaning of morality itself. A thing was originally a good in the material sense in which we still speak of "goods and commodities"; the ethical sense of good as opposed to bad came much later. In popular parlance we still speak of a broken nail as "no good," without desiring to pass any moral judgment on it. The original meaning of "dear" was not ethical, but economic; a commodity may still be "dear," even if we do not love it. To-day we esteem somebody; originally we put a money value on him (*aestimare*, from *aes*, money). In modern times we appreciate a quality; originally we set a price on it (*ad-pretium*). Everywhere the physical, material substratum was recognized long before the ethical connotation was reached.

Since the material precedes the ethical, it will not surprise us to learn that the material conditions of society — that is, in the widest sense, the economic conditions — continually modify the content of the ethical conception. Let us take a few illustrations at random. Slavery, for instance, was not considered

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wrong by the great Greek moralists, whose ethical views on many other topics were at least on a plane with those of modern times. In the same way the English colonists, who at home would have scouted the very idea of slavery, soon became in the southern states of America the most ardent and sincere advocates of the system; even the clergymen of the South honestly refused to consider slavery a sin. Had the northern and western states been subjected to the same climatic and economic conditions, there is little doubt that, so far at least as they could keep themselves shut off from contact with the more advanced industrial civilization of Europe, they would have completely shared the moral views of their southern brethren. Men are what conditions make them, and ethical ideals are not exempt from the same inexorable law of environment.

To the ethical teachers of the middle ages feudal rights did not seem to be wrongs. The hardy pioneers of New England needed a different set of virtues from those which their successors in a softer age have acquired; the attempt to subdue the Indian by love, charity and non-resistance would have meant not so much the disappearance of evil as the disappearance of the colonists. The moral ideal of a frontier society is as legitimate from the point of view of their needs as the very different ideal of a later stage of society. The virtue of hospitality is far more important in the pastoral stage than in the industrial. The ethical relation of master to workmen under the factory system is not the same as under the guild system. The idea of honor and of the necessity of duelling as a satisfaction for its violation is peculiar to an aristocratic or military class; with the change of economic conditions which make for democracy and industrialism, the content of the conception changes. We hear much of the growth of international law and of the application of ethical principles to international relations. We forget that such principles can come into existence only when the conditions are ripe. Universal peace can exist only when one country is so powerful that it dominates all the others — as in the case of imperial Rome — or when the chief nations have grown to be on such a footing of equality that none dares to

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offend its neighbor, and the minor countries are protected by the mutual jealousies of the great powers. Political ethics is here precisely like private ethics. Individual vengeance does not disappear until all the citizens are subjected to the power of the strong tyrant, or until the people are willing to abide by the decision of the court, because of the conviction that before the law they are all equal. International law began when economic forces in the sixteenth and seventeenth centuries made the first step toward equality by converting the heterogeneous petty principalities into great nations; international justice and universal peace will come only when the economic changes now proceeding apace shall have converted the struggling nations of the present day into a few vast empires, dividing among themselves, and gradually civilizing, the outlying colonial possessions, thus attaining a condition of comparative economic equality. Economic equality among individuals creates the democratic virtues; economic equality among nations can alone prepare the way for international peace and justice.

Thus the economic interpretation of history, correctly understood, does not in the least seek to deny or to minimize the importance of ethical and spiritual forces in history. It only emphasizes the domain within which the ethical forces can at any particular time act with success. To sound the praises of mercy and love to a band of marauding savages would be futile; but when the old conditions of warfare are no longer really needed for self-defense, the moral teacher can do a great work in introducing more civilized practices, which shall be in harmony with the real needs of the new society. It is always on the border line of the transition from the old social necessity to the new social convenience that the ethical reformer makes his influence felt. With the perpetual change in human conditions there is always some kind of a border line, and thus always the need of the moral teacher, to point out the higher ideal and the path of progress. Unless the social conditions, however, are ripe for the change, the demand of the ethical reformer will be fruitless. Only if the conditions are ripe will the reform be effected.

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The moral ideals are thus continually in the forefront of the contest for progress. The ethical teacher is the scout and the vanguard of society; but he will be followed only if he enjoys the confidence of the people, and the real battle will be fought by the main body of social forces, amid which the economic conditions are in last resort so often decisive. There is a moral growth in society, as well as in the individual. The more civilized the society, the more ethical its mode of life. But to become more civilized, to permit the moral ideals to percolate through continually lower strata of the population, we must have an economic basis to render it possible. With every improvement in the material condition of the great mass of the population there will be an opportunity for the unfolding of a higher moral life; but not until the economic conditions of society become far more ideal will the ethical development of the individual have a free field for limitless progress. Only then will it be possible to neglect the economic factor, which may henceforward be considered as a constant; only then will the economic interpretation of history become a matter for archæologists rather than for historians.

Moral forces are, indeed, no less influential in human society than the legal and political forces. But just as the legal system, like the political system, conforms at bottom to the economic conditions, so the particular ethical system or code of morality has been at any given period very largely an outgrowth of the social, and especially of the economic, life. If by materialism we mean a negation of the power of spiritual forces in humanity, the economic interpretation of history is really not materialistic. But if by economic interpretation we mean — what alone we should mean — that the ethical forces themselves are essentially social in their origin and largely conditioned in their actual sphere of operation by the economic relations of society, there is no real antagonism between the economic and the ethical life. The economic interpretation of history, in the reasonable and moderate sense of the term, does not for a moment subordinate the ethical life to the economic life; it does not even maintain that in any single individual there is a

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necessary connection between his moral impulses and his economic welfare; above all, it does not deny an interpenetration of economic institutions by ethical or religious influences. It endeavors only to show that in the records of the past the moral uplift of humanity has been closely connected with its social and economic progress, and that the ethical ideals of the community, which can alone bring about any lasting advance in civilization, have been erected on, and rendered possible by, the solid foundation of material prosperity. In short, the economic conception of history, properly interpreted, does not neglect the spiritual forces in history; it seeks only to point out the terms on which the spiritual life has hitherto been able to find its fullest fruition.

IX.

The fifth objection to the doctrine of economic interpretation is that it involves us in absurd exaggerations. In the way that it is commonly put, however, this objection, even if true, would be beside the mark.

It is indeed a fact that some of the enthusiastic advocates of economic interpretation have claimed too much, or have advanced explanations which are for the present at least not susceptible of proof. Thus the most brilliant of the Italian economists — Achille Loria — has published a number of books[1] in which he has attempted to interpret a vast mass of historical phenomena from the economic point of view. Many of his statements are correct, and have been successfully defended against the attacks of his critics; but some of his explanations are obviously unsatisfactory. Above all he has laid too much stress upon the influence of land in modern society and has thus, in some cases, injured rather than aided the general theory of economic interpretation, of which only the particular

[1] One of these has been translated by Professor Keasbey under the title: The Economic Foundation of Society (1899). The original Italian was published in 1885, and a third edition appeared in 1902 under the title: Le Basi economiche della costituzione sociale. His other important works bearing on the same general subject are Analisi della proprietà capitalista (1889), and his more recent works, La Sociologia, il suo compito (1901) and Il Capitalismo e la scienza (1901).

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application — even if an admirably suggestive one — is original with him.[1]

Other less brilliant writers have been guilty of even more extreme statements. Thus some have sought to make religion itself depend on economic forces. In this contention there is indeed a modicum of truth. We know that the religion of a pastoral people is necessarily different from that of an agricultural community. Marx himself pointed out that "the necessity for predicting the rise and fall of the Nile created Egyptian astronomy and with it the dominion of the priests as directors of agriculture."[2] A Russian scholar who had no connection with socialism has shown that somewhat analogous conditions were responsible for the theocracies of the other Oriental nations.[3] Hence it may be granted that there is an undoubted economic element in the religions of the past, as well as in those of the present.[4] Perhaps the most striking attempt, however, to carry the theory beyond its legitimate bounds is that which has sought the explanation of Christianity itself in economic facts alone.[5] It is indeed an accepted opinion nowadays that

[1] It is a singular testimony to the neglect of Marx's writings outside of Germany that so many critics in England, France and Italy should have hailed Loria as the originator of the doctrine of economic interpretation. Even Professor Keasbey is not entirely free from this error. See the Translator's Preface (p. ix) to the English edition. Loria himself, however, has made no such claim. See his recent book, Marx e la sua dottrina (1902), esp. cap. 31: "Intorno ad alcune Critiche dell' Engels."

[2] Capital, Engl. Transl., p. 523, note 1.

[3] Metschnikoff, La Civilisation et les grandes fleuves historiques (1889). Marx, of whom Metschnikoff was entirely ignorant, had said twenty years before: "One of the material bases of the power of the state over the small disconnected producing organisms in India was the regulation of the water supply." Capital, p. 523, note 2. Kautsky was led by this passage to study the conditions of the other Asiatic theocracies and came to the same conclusion without knowing anything of Metschnikoff, whose book had appeared in the interval. See *Die neue Zeit*, IX (1899), 447, note.

[4] Some of the social and economic aspects of modern religious movements have been emphasized by Thomas C. Hall, The Social Meaning of the Modern Religious Movement in England (1900).

[5] The economic interpretation of Christianity was first advanced by Kautsky in "Die Entstehung des Christenthums," *Die neue Zeit*, III (1885), 481, 529, and by Engels in his essay on "Bruno Bauer und das Urchristenthum" in the *Züricher Sozialdemokrat* (1882), Nos. 19, 20. It was developed by Engels in

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much of the opposition to Jesus was due to his radical social program and his alleged communistic views; it is equally certain that the economic conditions of the Roman Empire favored the reception of these new ideas. To contend, however, that Christianity was primarily an economic movement, is to ignore the function of the spiritual forces which we have just been discussing.[1]

The theory of economic interpretation has been applied not only to religion but even to philosophy. The whole movement of thought, for instance, which we associate with the words Greek philosophy has been explained in a ponderous volume as a phenomenon referable to essentially economic causes.[2] Eleutheropoulos,[3] it is true, denies that he is attempting to prove the validity of historical materialism; for he claims to be a "philosopher" rather than a historical materialist, and he calls his theory the "Grecian theory of development."[4] On closer inspection, however, the difference between the two doctrines is scarcely discernible; for the author tells us that the "materialistic conception of history furnishes the key to the phenomenon of how the general character of philosophy as a *Weltanschauung* displays itself in different forms and shadings." He states indeed that more than this it cannot do and that philosophy is also the product of the philosopher as an individual. "The theory of the economic relations

a subsequent article in *Die neue Zeit* in 1894, by E. H. Schmitt, also in *Die neue Zeit*, XV (1897), 1, p. 412, and by Kautsky in the chapter on "Der urchristliche Kommunismus" in the first volume of Die Geschichte des Sozialismus (1895).

[1] Some of the objections have been urged by Hermann, Sozialistische Irrlehren von der Entstehung des Christentums (1899). Kohler, however, goes entirely too far in the other direction.

[2] This view was first advanced by Dr. Stillich in an article in *Die neue Zeit*, XVI, 1, p. 580. This turned out, however, to be a plagiarism from the lectures of a Greek privat-docent at Zürich, mentioned in the next note. See *Die neue Zeit*, XVI, 2, p. 154.

[3] Wirthschaft und Philosophie, oder die Philosophie und die Lebens-Auffassung der jeweils bestehenden Gesellschaft. Erste Abtheilung: Die Philosophie und die Lebens-Auffassung des Griechentums auf Grund der gesellschaftlichen Zustände. Von Abr. Eleutheropoulos (1898; 2d ed., 1900).

[4] Preface to second edition.

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of society as the cause of becoming can therefore be true only in the sense of the formal cause of development."[1] Yet in almost every section he attempts to trace the connection between the particular philosophic theory and the economic conditions. It is needless to say that the attempt is far from successful. The social philosophy of the Greeks is indeed an outcome of the social conditions, as is to be expected; but the search for the ultimate principles of life and thought, as we find it in the greatest of the Greek thinkers, has no conceivable relation with the actual economic conditions. The explanations of Eleutheropoulos are almost always farfetched.

The economic interpretation of philosophy has not been confined to the Greek period. Another writer, presumably a socialist, has furnished an economic explanation of von Hartmann's philosophy, on the ground that the German *bourgeoisie* is giving up its class consciousness.[2] It is obviously not worth while to discuss this seriously.

Other more or less extreme applications of the theory are familiar to all. Among older writers that flourished before the theory itself was formulated it will suffice to mention Alison, who ascribed the downfall of the Roman Empire to the monetary difficulties of the period, and those Spanish historians who made the decay of Spain turn upon the extension of the *alcavala* — the general tax on sales. To come to more recent authors, we need but mention Mr. Brooks Adams[3] and Professor Patten,[4] who, amid much that is suggestive, have centred their attention upon particular economic conditions in the history of Rome and England respectively, and have ascribed to these an influence on general national development out of all proportion to their real significance.

Such invalid applications of the theory, however, do not necessarily invalidate the doctrine itself. We must distinguish here, as in every other domain of human inquiry, between the use

[1] *Op cit.*, p. 16.
[2] Masaryk, Die Grundlagen des Marxismus, p. 146.
[3] The Law of Civilisation and Decay.
[4] The Development of English Thought.

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and the abuse of a principle. The difference between the scientist and the fanatic is that the one sees the limitations of a principle, where the other recognizes none. To make any science or any theory responsible for all the vagaries of its over-enthusiastic advocates would soon result in a discrediting of science itself. Wise men do not judge a race by its least fortunate members; fair-minded critics do not estimate the value of a doctrine by its excrescences.

It is, however, important to remember that the originators of the theory have themselves called attention to the danger of exaggeration. Toward the close of his career Engels, influenced no doubt by the weight of adverse criticism, pointed out that too much had sometimes been claimed for the doctrine. "Marx and I," he writes to a student in 1890,

> are partly responsible for the fact that the younger men have sometimes laid more stress on the economic side than it deserves. In meeting the attacks of our opponents it was necessary for us to emphasize the dominant principle, denied by them; and we did not always have the time, place or opportunity to let the other factors, which were concerned in the mutual action and reaction, get their deserts.[1]

And in another letter Engels explains his meaning more clearly:

> According to the materialistic view of history the factor which is *in last instance* decisive in history is the production and reproduction of actual life. More than this neither Marx nor I have ever asserted. But when any one distorts this so as to read that the economic factor is the sole element, he converts the statement into a meaningless, abstract, absurd phrase. The economic condition is the basis, but the various elements of the superstructure — the political forms of the class contests, and their results, the constitutions — the legal forms, and also all the reflexes of these actual contests in the brains of the participants, the political, legal, philosophical theories, the religious views . . . — all these exert an influence on the

[1] This letter is printed in *Der sozialistische Akademiker*, October 1, 1895, and is quoted by Greulich, Ueber die materialistische Geschichts-Auffassung (1897), p. 7, and by Masaryk, Die Grundlagen des Marxismus (1899), p. 104.

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development of the historical struggles, and in many instances determine their form.[1]

To ascribe everything to economic changes is plainly inadmissible. Engels himself pointed out in another place that to attempt to explain every fact of history on economic grounds is not only pedantic, but ridiculous. Political conditions and national traditions much more often play an important rôle. To say, for instance, that Brandenburg of all the German states should have been selected to become the great power of the future solely because of economic considerations, is foolish. To claim that every petty German principality was destined to live or to die for economic reasons alone, would be as absurd as to ascribe the difference between the various German dialects solely to economic causes.[2]

[1] "Nach materialistischer Geschichts-Auffassung ist das in letzter Instanz bestimmende Moment in der Geschichte die Produktion und Reproduktion des wirklichen Lebens. Mehr hat weder Marx noch Ich je behauptet. Wenn nun Jemand das dahin verdreht, das ökonomische Moment sei das einzig bestimmende, so verwandelt er jenen Satz in eine nichtssagende, abstrakte, absurde Phrase. Die ökonomische Lage ist die Basis, aber die verschiedenen Momente des Ueberbaues — politische Formen des Klassenkampfes und seine Resultate — Verfassungen, nach gewonnener Schlacht durch die siegende Klasse festgestellt, u. s. w. — Rechtsformen, und nun gar die Reflexe aller dieser wirklichen Kämpfe im Gehirn der Beteiligten, politische, juristische, philosophische Theorien, religiöse Anschauungen und deren Weiterentwicklung zu Dogmensystemen, üben auch ihre Einwirkung auf den Verlauf der geschichtlichen Kämpfe aus und bestimmen in vielen Fällen vorwiegend deren Form. Es ist eine Wechselwirkung aller dieser Momente, worin schliesslich durch alle die unendliche Menge von Zufälligkeiten (d. h. von Dingen und Ereignissen, deren innerer Zusammenhang untereinander so entfernt oder so unnachweisbar ist, dass wir ihn als nicht vorhanden betrachten, vernachlässigen können) als Notwendigkeit die ökonomische Bewegung sich durchsetzt. Sonst wäre die Anwendung der Theorie auf eine beliebige Geschichtsperiode ja leichter als die Lösung einer einfachen Gleichung ersten Grades." — *Der sozialistische Akademiker* (October 15, 1895), p. 351. Reprinted in Woltmann, Der historische Materialismus (1900), p. 239. *Cf.* also Engels's view of the importance of idealistic elements in a second letter of 1890 printed in the *Leipziger Volkszeitung* (1895), No. 250 (reprinted in Woltmann, p. 243), and in a further letter of 1893 printed in the second edition of F. Mehring's Geschichte der deutschen Sozialdemokratie, Zweiter Theil, p. 556.

[2] "Es wird sich kaum ohne Pedanterie behaupten lassen, dass unter den vielen Kleinstaaten Norddeutschlands gerade Brandenburg durch ökonomische Notwendigkeit und nicht auch durch andere Momente (vor allen seine Verwicklung, durch den Besitz von Preussen, mit Polen und dadurch mit internationalen politischen Verhältnissen — die ja auch bei der Bildung der östreichischen

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Thus we see the doctrine of "historical materialism" in its crude form repudiated even by its founders. And it is unfortunately true that many "historical materialists," by the very exaggeration and vehemence of their statements, have brought discredit on a doctrine which, in a sublimated form, contains so large an element of truth and which has done so much for the progress of science.

X.

What then shall we say of the doctrine of economic interpretation?

That its authors originally claimed too much for it, or at least framed the doctrine so as to give rise to misconception, is undoubtedly true. That some of its advocates have gone entirely too far is equally certain. And it is above all certain that the choice of the term "historical materialism" is unfortunate. The materialistic view of history, like the utilitarian theory of morals, has had to suffer more because of its name than because of its essence. The one is as little sordid as the other.

The economic interpretation of history, correctly understood, does not claim that every phenomenon of human life in general, or of social life in particular, is to be explained on economic grounds. Few writers would trace the different manifestations of language or even of art primarily to economic conditions; still fewer would maintain that the various forms of pure science have more than a remote connection with social conditions in general. Man is what he is because of mental evolution, and even his physical wants are largely transformed and transmuted in the crucible of reasoning. The facts of mentality must be reckoned with.

Hausmacht entscheidend sind) dazu bestimmt war, die Grossmacht zu werden, in der sich der ökonomische, sprachliche und seit der Reformation auch religiöse Unterschied des Nordens vom Süden verkörperte. Es wird schwerlich gelingen, die Existenz jedes deutschen Kleinstaates der Vergangenheit und Gegenwart oder den Ursprung der hochdeutschen Lautverschiebung, die die geographische, durch die Gebirge von den Sudeten bis zum Taunus gebildete, Scheidewand zu einem förmlichen Riss durch Deutschland erweiterte, ökonomisch zu erklären, ohne sich lächerlich zu machen." — *Der sozialistische Akademiker, loc. cit.*

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It is an error,[1] however, to suppose that the theory of economic interpretation can be set aside by refuting the supposed claim that the economic life is genetically antecedent to the social or the mental life. The theory makes no such claim.

The whole contention as to the precedence in time of an assumed cause over a given effect is quite beside the mark. It reminds one of the old query as to which came first, the egg or the chicken. There is no longer any dispute among biologists as to the influence of environment. When, however, we speak of the transformation of a given species, we do not necessarily mean that the environment was there first, and that the organism came later. Without the environment there could indeed be no change; but without the organism there can also be no change. The adaptation of the organism to the environment simply means that those among existing variations are selected which conduce most to the perpetuation of the species. If there were no existing variations or sports there would be no transformation. The fact that the variation may have existed before the change in environment occurs is no objection to the theory of adjustment of the organism to the environment. Although we say that the organism is determined by the environment, it is quite immaterial which existed first.

So it is with humanity. All human progress is at bottom mental progress; all changes must go through the human mind. There is thus an undoubted psychological basis for all human evolution. The question, however, still remains: What determines the thought of humanity? Even if we say that the answer is to be sought in the social conditions, the statement is irrespective of the genetic antecedence of the social environment to the mental life. It is quite true that the kernel of Marx's whole doctrine is to be found in the celebrated sentence: "It is not the consciousness of mankind that determines its existence, but on the contrary its social existence that determines its

[1] Committed, for instance, by my honored colleague, Professor Giddings, in his interesting article "The Economic Ages," POLITICAL SCIENCE QUARTERLY (June, 1901). Almost the same argument was made at the same time by Salvadori, La Scienza economica e la teoria dell' evoluzione (1901), pp. 58–63.

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consciousness."[1] However extreme this statement may be on its purely philosophical side, it is not open to one criticism so frequently advanced; it does not necessarily imply that the social existence comes first, and the consciousness afterwards. Such an implication is as unwarranted as it would be in the analogous doctrine of biology; when biologists tell us that the organism is determined by the environment they do not necessarily make any hypothesis as to the priority of the one to the other. The whole question of genetic antecedence is unimportant.

Of far more importance, however, is the criticism based on the alleged insufficiency of the economic factor to explain the changes in social life in general. There is little doubt that the extreme advocates of "historical materialism" have laid themselves open to attack from philosophers and historians alike. They have sometimes seemed to claim that all sociology must be based exclusively on economics, and that all social life is nothing but a reflex of the economic life.[2] No such claim, however, can be countenanced, and no such claim is made by the moderate advocates of the theory.

The claim cannot be countenanced for the obvious reason that economics deals with only one kind of social relations and that there are as many kinds of social relations as there are classes of social wants. We have not only economic wants, but also moral, religious, jural, political and many other kinds of collective wants; we have not only collective wants but individual wants, like physical, technical, æsthetic, scientific and philosophical wants. The term "utility," which has been appropriated by the economist, is not by any means peculiar to him. Objects may have not only an economic utility, but a physical, æsthetic, scientific, technical, moral, religious, jural,

[1] "Es ist nicht das Bewusstsein der Menschen, das ihr Sein, sondern ihr gesellschaftliches Sein, das ihr Bewusstsein bestimmt." — Marx, Zur Kritik der politischen Oekonomie, Vorwort, p. v. The whole controversy of Hollitscher, Das historische Gesetz (1901), pp. 93 *et seq.*, misses the real point.

[2] Among these extremists must be classed Loria, who has advanced his views most clearly in his interesting work La Sociologia. In this he seeks to distinguish an economic sociology from the biologic or psychologic sociology of other writers.

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political or philosophical utility. The value which is the expression of this utility and which forms the subject-matter of economics is only one subdivision of a far greater class. For all the world is continually rating objects and ideas according to their æsthetic, scientific, technical, moral, religious, jural, political or philosophical value, without giving any thought to their economic value. So far as utility and value are social in character, that is, so far as they depend upon the relation of man to man, they form the subject-matter of sociology. Economics deals with only one kind of social utilities or values and can therefore not explain all kinds of social utilities or values. The strands of human life are manifold and complex.[1]

In this aspect, what is untrue of the individual cannot be true of the group of individuals. We have passed beyond the time when it was incumbent to explain the fallacy lurking in the phrase "the economic man." There is indeed an economic life and an economic motive — the motive which leads every human being to satisfy his wants with the least outlay of effort. But it is no longer necessary to show that the individual is impelled by other motives than the economic one, and that the economic motive itself is not everywhere equally strong, or equally free from the admixture of other influences. A full analysis of all the motives that influence men, even in their economic life, would test the powers of the social psychologist. There is no

[1] An interesting criticism of "historical materialism" from this point of view and with especial reference to the influence of economics on law is made by Rudolf Stammler, Professor of Law in Halle, in his rather ponderous work, Wirthschaft und Recht nach der materialistischen Geschichts-Auffassung (1896). Stammler is far fairer to Marx than most of the opponents of the theory. He considers the attempt of Marx as in many ways a most remarkable one and deserving of high praise; but he nevertheless objects to the theory as unfinished and not completely thought out. Stammler does not contend that no monistic explanation of social life is possible. In fact his own synthesis is constructed on teleological lines — an explanation which regards all past social life in the light of social purposes or a social ideal. With special reference to the relation between law and economics, he defines social life as a "common activity regulated from without" (*ein äusserlich geregeltes Zusammenwirken*), and maintains that these external rules govern at once the legal, political, economic and other social relations. It is unphilosophical, then, to claim that any one set of social relations is the general cause or explanation of other social relations. They are all the common product of the same cause.

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"economic man," just as there is no "theological man." The merchant has family ties just as the clergyman has an appetite.

The wealth which forms the subject-matter of economic activity can be increased only through the multiplication of commodities; but this multiplication can take place only in connection with an increased demand. Increased demand, however, means a diversification of wants. The things wanted by an individual depend in last resort on his æsthetic, intellectual and moral condition. The economic life is thus ultimately bound up with the whole ethical and social life. Deeper than is often recognized is the meaning of Ruskin's statement, "There is no wealth but life," and of his further claim, "Nor can any noble thing be wealth except to a noble person." The goal of all economic development is to make wealth abundant and men able to use wealth correctly.

If society, then, is an aggregation of individuals and if history is the record of the activities of the social group and its constituent elements, history is the parti-colored garb of humanity. In one sense, then, there are as many methods of interpreting history as there are classes of human activities or wants. There is not only an economic interpretation of history, but an ethical, an æsthetic, a political, a jural, a linguistic, a religious and a scientific interpretation of history. Every scholar can thus legitimately regard past events from his own particular standpoint.

Nevertheless, if we take a broad view of human development, there is still some justification for speaking of *the* economic interpretation of history as the important one, rather than of *an* economic interpretation among other equally valid explanations. The broad reasons which lead to this conclusion may be summed up as follows.

Human life has thus far not been exempt from the inexorable law of nature, with its struggle for existence through natural selection. This struggle has assumed three forms. We find first the original struggle of group with group, which in modern times has become the contest of people with people, of nation with nation. Secondly, with the differentiation of population

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there came the rivalry of class with class: first, of the sacerdotal with the military and the industrial class; later, of the moneyed interest with the landed interest; still later, of the labor class with one or all of the capitalist classes. Thirdly, we find within each class the competition of the individuals to gain the mastery in the class. These three forms of conflict are in last resort all due to the pressure of life upon the means of subsistence; individual competition, class competition and race competition are all referable to the niggardliness of nature, to the inequality of human gifts, to the difference in social opportunity. Civilization indeed consists in the attempt to minimize the evils, while conserving the benefits, of this hitherto inevitable conflict between material resources and human desires. As long, however, as this conflict endures, the primary explanation of human life must continue to be the economic explanation — the explanation of the adjustment of material resources to human desires. This adjustment may be modified by æsthetic, religious and moral, in short by intellectual and spiritual, forces; but in last resort it still remains an adjustment of life to the wherewithal of life.

When a more ideal economic adjustment is finally reached — that is, when science shall have given us a complete mastery over means of production, when the growth of population shall be held in check by the purposive activity of the social group, when progress in the individual and the race shall be possible without any conflict except one for unselfish ends, and when the mass of the people shall live as do to-day its noblest members — then, indeed, the economic conditions will fall into the background and will be completely overshadowed by the other social factors of progress. But until that period is reached, the economic conditions of the social group and of the mass of individuals must continue to retain their ascendancy. From the beginning of social life up to the present the rise, the progress and the decay of nations have been largely due to changes in the economic relations, internal and external, of the social groups, even though the facility with which mankind has availed itself of this economic environment has been the

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product of intellectual and moral forces. While the study of the economic factors alone will manifestly not suffice to enable us to explain all the myriad forms in which the human spirit has clothed itself since history began, it is none the less true that so long as the body is not everywhere held in complete subjection to the soul, so long as the struggle for wealth does not everywhere give way to the struggle for virtue, the social structure and the fundamental relations between social classes will be largely shaped by these overmastering influences, which, whether we approve or deplore them, still form so great a part of the content of life.

Human activity is indeed the activity of sentient beings, and the history of mankind, therefore, is the history of mental development; but human life depends upon the relation between the individual and his environment. In the struggle that has thus far gone on between individuals and groups in their desire to make the best of their environment, the paramount considerations have necessarily been economic in character. The view of history which lays stress on these paramount considerations is what we call the economic interpretation of history. They are not the exclusive considerations, and in particular instances the action and reaction of social forces may give the decisive influence to non-economic factors. Taking man, however, for what he has thus far been and still is, it is difficult to deny that the underlying influence in its broadest aspects has very generally been of this economic character. The economic interpretation of history, in its proper formulation, does not exhaust the possibilities of life and progress; it does not explain all the niceties of human development; but it emphasizes the forces which have hitherto been so largely instrumental in the rise and fall, in the prosperity and decadence, in the glory and failure, in the weal and woe of nations and peoples. It is a relative, rather than an absolute, explanation. It is true of the past; it will tend to become less and less true of the future.

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XI.

If we ask, finally, what importance shall be assigned to the theory of economic interpretation, we must consider it from two different points of view.

From the purely philosophical standpoint, it may be confessed that the theory, especially in its extreme form, is no longer tenable as the universal explanation of all human life. No monistic interpretation of humanity is possible; or, at all events, none will be possible until that most difficult of all studies — sociology — succeeds in finally elaborating the laws of its existence and thus vindicating its claim to be a real science. As a philosophical doctrine of universal validity, the theory of "historical materialism" can no longer be successfully defended.

But in the narrower sense of economic interpretation of history — in the sense, namely, that the economic factor has been of the utmost importance in history, and that the historical factor must be reckoned with in economics — the theory has been, and still is, of considerable significance. What is this significance to economics as well as to history?

In economics the old controversy as to the respective merits of the deductive and the inductive methods has been laid to rest. It is now recognized that both methods are legitimate and even necessary. The older antagonism to the quest for natural law in economics is now seen to be due to a confusion of thought and to a mistaken identification of natural law with immutable precepts. When the earlier writers spoke of the law of free trade, or of the inexorable law of *laissez faire*, they did not use the term "law" in the sense of scientific law, or a statement of the necessary relations between facts. Yet this is the only sense in which the term is properly employed. The removal of the older teleological connotation has left the conception of natural law in economics as innocent and as valuable as it is in any so-called pure science. While the explanation of what actually exists, however, forms an undoubted part of all science, the study of how these things have come

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to be what they are is perhaps of more importance in the social disciplines than in all others. The realization of the fact that social institutions are products of evolution, and that they thus form historical and relative categories, instead of being absolute categories, is the one great acquisition of modern economics which differentiates it *toto caelo* from that of earlier times.

The acceptance of the principle of growth and of historic relativity is due to several causes. The historical school of jurisprudence in Germany, under Savigny and Eichhorn, did much to prepare men's minds for the reception of what now seems an obvious truth in legal science. The historical school of economists, under Roscher, Hildebrand and Knies, did more to familiarize the public with the newer conception. The influence of Darwin and the application of Darwinian methods to social science by Spencer and Wallace did still more to reinforce the idea of growth by the doctrines of evolution and natural selection. The jurisconsults, however, confined themselves to law, the historical economists, at the beginning at least, did not realize the connection between the economic and the wider social life and the Darwinians came on the scene at a later date. Comte indeed, influenced no doubt by Saint Simon, had called attention to the relation between economics and sociology, but his own fund of economic knowledge was exceedingly slight. Long before Spencer wrote, Karl Marx, in a way undreamt of by the historical economists, and unrecognized by Comte, not only stated that every economic institution is an historical category, but pointed out in a novel and fruitful way the connection between economic and social facts. It is always hazardous to ascribe a complex change of thought to simple causes, and there is no doubt that the newer stream of economic thought is due to various currents of influence; but it is safe to predict that when the future historian of economics and social science comes to deal with the great transition of recent years, he will be compelled to assign to Karl Marx a far more prominent place than has hitherto been customary outside of the narrow ranks of the socialists

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themselves. In pure economic theory the work of Karl Marx, although brilliant and subtle, will probably live only because of its critical character; but in economic method and in social philosophy, Marx will long be remembered as one of those great pioneers who, even if they are not able themselves to reach the goal, nevertheless blaze out a new and promising path in the wilderness of human thought and human progress. The economic interpretation of history, in emphasizing the historical basis of economic institutions, has done much for economics.

On the other hand, it has done even more for history. It has taught us to search below the surface. The great-man theory of history, which was once so prevalent, simplified the problem to such an extent that history was in danger of becoming a mere catalogue of dates and events. The investigation of political and diplomatic relations indeed somewhat broadened the discipline and for a long time occupied the energies of the foremost writers. The next step in advance was taken when, under the influence of the school of historical jurisprudence, more attention was paid to the relations of public law, and when political progress was shown to rest largely on the basis of constitutional history. The study of the development of political institutions gradually replaced that of the mere record of political events. Legitimate and indispensable as was this step, it did not go far enough. Those writers, still so numerous, who understand by history primarily constitutional history, show that they only half comprehend the condition and the spirit of modern historical science.

The newer spirit in history emphasizes not so much the constitutional as the institutional side in development, and understands by institutions, not merely the political institutions, but the wider social institutions of which the political form only one manifestation. The emphasis is now put upon social growth, and national as well as international life is coming more and more to be recognized as the result of the play and interplay of social forces. It is for this reason that history is nowadays at once far more fascinating and immeasurably more complicated than was formerly the case. History now

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seeks to gauge the influence of factors some of which turn out to be exceedingly elusive. It attempts to introduce into the past the outlines of a social science whose very principles have not yet been adequately and permanently elaborated.

Whatever be the difficulties of the task, however, the new ideal is now more and more clearly recognized. In the formulation of this new ideal the theory of economic interpretation has played an important, if not always a consciously recognized, rôle. It is not that the historian of the future is to be simply an economic historian, for the economic life does not constitute the whole of social life. It is, however, the theory of economic interpretation that was largely responsible for turning men's minds to the consideration of the social factor in history. Marx and his followers first emphasized in a brilliant and striking way the relation of certain legal, political and constitutional facts to economic changes, and first attempted to present a unitary conception of history. Even though it may be conceded that this unitary conception is premature, and even if it is practically certain that Marx's own version of it is exaggerated, if not misleading, it is scarcely open to doubt that through it in large measure the ideas of historians were directed to some of the momentous factors in human progress which had hitherto escaped their attention. Regarded from this point of view the theory of economic interpretation acquires an increased significance. Whether or not we are prepared to accept it as an adequate explanation of human progress in general, we must all recognize the beneficent influence that it has exerted in stimulating the thoughts of scholars and in broadening the concepts and the ideals of history and economics alike. If for no other reason, it will deserve well of future investigators and will occupy an honored place in the record of mental development and scientific progress.

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PATTEN'S THEORY OF PROSPERITY.[1]

THE student of economics will rejoice to find that in *The Theory of Prosperity* Professor Patten has returned to the field of economic theory, where his vigorous independence of thought had already achieved so much. In wealth of ideas and in depth of analysis, this latest work of Professor Patten's may fairly be considered his best. Iconoclastic in the extreme, it attacks and overthrows many accepted doctrines of economic theory. Yet its general effect is rather to supplement and complete current theory than to displace or destroy it.

Instead of a colorless unit of humanity, actuated solely by a blind desire for goods and the utilities they embody, Professor Patten postulates a man whose character is modified by every change in the environment; whose labor is something pleasurable in itself, not a pain to be recompensed with goods; whose final aim is not the mere acquisition of commodities, but an adaptation of himself to his environment which may harmonize effort and its results. Yet he remains an economic man, subject to economic law.

The Theory of Prosperity consists of two parts which are largely independent of each other. The first, "Income as determined by Existing Conditions," is a purely economic study, which endeavors to picture the distribution of wealth in society as it exists. The second part, "Income as determined by Heredity," is a sociological essay and aims to set forth the part that economic forces have played in the making of man and society.

In Professor Patten's view, the classification of incomes under wages, interest, profits and rent had significance only so long as the recipients of these incomes formed distinct social classes. "As these differences between landlord and manager, laborer and capitalist pass away, the terms rent, profit, interest and wages cease to be clear demarcations of income, and must be newly defined or entirely discarded." Were it not for the existence of subjective costs, all income might be regarded as a surplus, as reward for productive effort or as return on investments. Subjective cost is, in

[1] The Theory of Prosperity. By Simon N. Patten. New York, The Macmillan Company, 1902. 237 pp.

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Professor Patten's opinion, a disappearing factor in economic life. Accordingly, he proposes a classification of income based upon the three points of view from which it may be regarded, instead of upon the social classes which receive it.

Fortunately for the reader whose mind does not readily leave its accustomed environment, Professor Patten has not carried out his plan consistently. The first three chapters of the work are virtually devoted to wages, rent and profit and interest, *not* to all income regarded as wages, interest or rent. It is for this reason that it is possible to regard *The Theory of Prosperity* as supplementary to existing theoretical systems, in spite of the numerous novel positions which are maintained.

The point of the first chapter, "Work and Pay," is the rejection of subjective cost as the determinant of wages. Labor, even in the final hour, is not normally painful to the normal man. Where the laborer is a virtual slave, toil may be so prolonged as to become painful. But the maximum product is obtained, in the long run, when exertion ceases before the setting in of the drain of energy that weariness and pain signify. The free laborer should produce goods without subjective cost. Indeed, his work should be a pleasure to him, since one of the most urgent of needs is the expending of the surplus energy that rest and the consumption of goods create. It is true that much work is disagreeable; but for this, non-economic elements are usually to be blamed. Manual labor is a hardship because of the low esteem in which it is held. Those who engage in an occupation when weakened by disease and dissipation impute their misery to the toil which they perform. They would, however, be no less wretched in idleness.

When these facts are taken into account, it becomes evident that the element of pain has been given too prominent a position in economic theory. An explanation of wages which rests upon the balancing of pleasures against pains cannot lay claim to universal validity. What the modern wage earner really weighs against the goods which an additional hour would furnish is the pleasure of freedom to rest and to consume what he has already earned. Sacrifice of pleasure, not endurance of pain, is the normal cost of the final hour of work.

The key to the chapter on "Monopoly Advantage" is the predominant position of the consumer in Professor Patten's system. The theory which regards cost as the standard to which prices are made to conform under the pressure of competition, is declared to be

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insufficient to explain the facts of modern industry. Producers do not compete; prices do not fall to costs. Yet there is a force which holds prices down and another which sustains them. These forces reside in the consumer. The consumer has the power of selecting from among several kinds of goods which will satisfy the same want; he has the power of selecting from among several wants the one which is to be satisfied. If any good rises in price, consumption is shifted to other goods. Thus prices are kept down, quite without regard to competition. But the consumer also raises prices against himself. The growth of new wants compels him to curtail the consumption of goods which satisfy old wants, in order to employ a part of his income in the satisfaction of the new. The margin of consumption is accordingly raised, and with it prices. Unfortunately, the author has not worked out the complicated movements in production which would have to take place before the raising of the margin of consumption would raise price. Hence he seems to maintain the somewhat anomalous position that the price of a commodity rises because demand for it is curtailed.

Again, the consumer controls what Professor Patten calls the "fixed income" — the sum of payments to industrial factors which must be made if production is to continue. The standard of living decides how much the laborer must be paid if he is to give his services; standards of consumption set the reward that owners of other economic agents must receive if they are to permit their property to be fully utilized. Finally, the character of the consumer fixes the volume of "free income," the surplus which favored producers receive. Given the standards of consumption and the extent to which the power of substitution is developed, and the free income is a perfectly definite quantity. The consumer can get none of it. Monopolies may struggle for it; what one gains, another loses. A monopoly, however powerful, can secure nothing which is not a part of this fund. Yet, even here, the consumer is "the adjuster of the effects of the struggle." If a powerful monopoly raises the price of its products, the consumer meets the drain upon his income by spending less upon other commodities. The price of these falls, and the part of the monopoly surplus which connected itself with them now shifts to the more powerful producer.

The chapter on "Investments" contains an exceedingly suggestive explanation of interest. Here again the laws of consumption are brought into a predominant position. Like the Austrian economists, Professor Patten regards the overvaluation of present goods or the

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undervaluation of future goods as the fundamental fact in the interest problem. It is in the explanation of the cause of the disparity in present and future values that Professor Patten's originality manifests itself. Many goods, he points out, have little value unless they are consumed in combination with other goods. A much greater number have their value enhanced when other kinds of goods are placed in a complementary relation with them. Accordingly, any increase in purchasing power may permit a consumer to procure goods which will be complementary to those which he already has, and so may increase the sum of his satisfactions more than proportionately. He thus secures a surplus of satisfaction; and if the increased purchasing power is secured by borrowing against future repayment, that surplus is the measure of the interest he can afford to pay. As against a theory which bases the "discounting" of the future upon inability to realize future wants or the weakness of will that would leave them with insufficient provision, the theory of Professor Patten is based upon a principle which would apply as well to a society of perfectly prudent individuals as to one in which the deficiencies of character which are usually assumed exist.

But there is one consideration which would seem to prevent the acceptance of Professor Patten's very ingenious theory as a sufficient explanation of interest, viewed merely from the subjective side. It is true that if a consumer, by adding to his present income a part of his future income, can form complements of enhanced utility, a fund of surplus satisfaction is formed which may economically be purchased with interest payment. But, in like manner, an equal fund could be created by adding a part of the present income to future income. In that case the person who saves could afford to take negative interest. Unless the present is universally favored as the point of time in which to form complements of goods, there would seem to be no reason whatever why interest should be paid. It is accordingly this favoring of the present as the time for consuming goods, either singly or in complements, which requires explanation. And for that it is necessary to appeal to the "race differences,"—failure to realize the future and to provide for it.

The second part of *The Theory of Prosperity* undertakes once more the difficult task of explaining the evolution of social man in terms of the economic environment. Chance variation, growth of surplus energy and natural selection are the factors mainly relied upon. Each environment imposes upon man a body of rules of conduct, enforcing it by elimination of those who do not obey. As man

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becomes more completely adapted to his environment, he procures his living with greater ease and develops a surplus of energy which drives him into more favorable environments. The old law of elimination does not press so heavily upon him; his old standards of conduct lose their force, and new standards are created. The increased production would lead to overnutrition and consequent degeneracy, were it not for the development of altruistic impulses which convey a part of the product of the strong to the weak, or which direct energy into channels that are to the advantage of society as a whole. Overnutrition and dissipation cause a revulsion of feeling which ends in the creation of ideals in which the good itself appears, freed from the evil.

In this part of the work the ingenuity of Professor Patten's reasoning is seen at its best. But it cannot be said to be wholly convincing. The main points may, perhaps, be granted. Surplus energy is a condition without which progress is impossible. Elimination cuts off grotesque aberrations; economic laws provide a social structure in which one form of ideals rather than another arises. But it is much easier to explain thus what social life and mental life can never be than to explain what they actually are. In sociology, at least, the law of survival is a purely negative explanation and is incapable of establishing the causes of positive phenomena. Professor Patten's theory is a valuable contribution to the explanation of society, but few will regard it as of itself a sufficient explanation.

What is characteristic of the second part of *The Theory of Prosperity* is characteristic in minor degree of the first also. Frequently ideas are advanced which present the truth, but something a little less or a little more than the whole truth. When, for example, it is stated (p. 68) that "any instability in the price of grain or meat does not raise the price to the consumer: it lowers the price to the farmer," the effect of instability of price upon supply is evidently overlooked. It hardly seems correct to say that "each good has a definite expense which is the same for all its units" (p. 81), even of goods produced under the law of constant return. The fall in agricultural rents is used to prove the powerlessness of one monopoly to hold out against another. But have rents really fallen? Monopoly is said to be a problem, not of values, but of prices (p. 88). If this means that monopoly forces up prices without affecting values, it can hardly be true. The limitation of supply which raises prices also raises the social margin of unsatisfied wants, and hence affects values. But the economic doctrine which most readers will find the

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greatest difficulty in accepting is that "the growth of one monopoly is always at the expense of other monopolies, never at the expense of the public" (p. 92).

These are however points of minor importance and do not detract from the value of the work as a whole. In a book so packed with ideas as *The Theory of Prosperity*, it is quite natural that a few should be taken out somewhat misshapen.

In reading Professor Patten's work, one is almost inevitably led to compare its theories with those of Professor Clark's *Distribution of Wealth*, with which it frequently takes issue. The method of treatment differs *toto coelo:* Professor Clark deals with a world of unrestrained competition; Professor Patten with a world of trusts and trade unions. A close study will show, however, not only that in many vital points the theories advanced are susceptible of comparison, but also that the opposition between them is more apparent than real. Thus, in the theory of wages, the "sacrifice" which Professor Patten balances against goods produced contains no elements which are not implicit in Professor Clark's "cost." In Professor Patten's view it is the better laborers who fix wages, because they are able, if exploited, to move from group to group. Professor Clark regards marginal labor as that which controls wages; but marginal labor does not mean that of inefficient laborers. There is nothing in Professor Clark's theory opposed to a view which regards the labor embodied in workers who are free to move as marginal and wage fixing.

In their views of the forces that control price, the opposition of the two writers seems at first to be irreconcilable. Professor Clark regards cost as the point toward which prices gravitate; Professor Patten argues that prices tend to move away from cost. But it is easy to see that the term "cost" connotes entirely different things in the two systems. Professor Clark's "cost" is social cost. It is the sum of payments that must be made in the production of any commodity to keep perfectly mobile agents from migrating to other industries. Professor Patten's "cost" is the sum of disutilities that must be endured in the production of any good. Clearly, the more closely prices approximate social cost, the farther do they move from subjective cost.

The disposition of the monopoly surplus is another point upon which there appears to be serious disagreement. In Professor Patten's view, the surplus is permanent, existing even in a static state. In Professor Clark's view, it is transient and could not

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appear in a state of static industry. The first thing that needs to be noted is that "static" is used with different significance by the two authors. Clark's static state is one in which industry is stationary and in which competition is free; Patten's static state is merely one in which industry is stationary. In the second place, the monopoly surplus of Patten is not the dynamic surplus of Clark. The income from land and other productive goods which are not made by labor Patten would, but Clark would not, consider as a part of the monopoly surplus. Both would agree that it could not disappear in a static state.

In their views as to the cause of interest there is a divergence which cannot be explained away. Patten regards capital as a complex of unripened utilities which will at a future date transform themselves into utilities suitable for consumption. The difference in value between the unripened utilities and the ultimate goods is interest. On the subjective side, the future must be "discounted" — for whatever cause — before interest can appear. Clark, on the other hand, regards capital as a permanent productive instrument, creating a flow of utilities synchronous with the product of labor. In his system, discounting the future may act as a check upon saving, and hence may indirectly affect the rate of interest, but is not at all a *cause* of interest. The controversy is one which does not begin with Professor Patten and Professor Clark, and which will probably live as long as economic theory. Following a method of reasoning which Professor Patten frequently employs, one is tempted to explain this controversy as a natural result of the dual nature of capital. Embodied in passive capital goods, capital seems simply to "grow" in value; and the undervaluation of the future seems to be the only reason for this growth. Embodied in instruments and tools, capital manifestly produces utilities in the same way in which labor does, and its productivity is the measure of its reward. It is possible to regard either form of capital as a mere variety of the other form, governed by the same laws. Hence a reconciliation of the two views is impossible.

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REVIEWS.

Studies in Political and Social Ethics. By DAVID G. RITCHIE, Professor of Logic and Metaphysics in the University of St. Andrews. London, Macmillan & Co., 1902. — 12mo, ix, 238 pp.

In whatever Professor Ritchie writes he is always interesting, always suggestive and almost always sound. Yet he is, if one might use the expression, a tantalizing writer. He whets the appetite without wholly satisfying it. In his best known and most pretentious work, *Natural Rights*, he has given us what is perhaps the best criticism that we have in English upon the doctrine that there are in political and social ethics specific rules of conduct which admit of definite statement and which are universally valid. But in doing this he has not given us what we fain would have, a systematic exposition of his own political philosophy. His work sufficiently discloses the weaknesses of the natural-rights theories, but does not itself set forth a doctrine of social obligation built up logically, step by step, from premises antecedently admitted or demonstrated. The topics of the present volume which, for the most part, lie within the same field of inquiry as the *Natural Rights*, are of the same general character. The essays of which the work is composed are stimulating, acutely critical and interesting, but hardly instructive to the special reader. Theories of "Social Evolution," "Equality," "State Interference," "Civic Duties and Party Politics," "War and Peace," "The Ultimate Value of Social Effort," and "The Will and Responsibility" are considered. The chapter upon "War and Peace" is plainly intended, though without any direct assertion to that effect, as a defense of the English in their South African war. Nothing more is proven, however, than that, granting certain circumstances, such a contest is possible of justification. The chapter on "Social Evolution," criticising Mr. Kidd's views, is especially good. It is a pity, however, that Professor Ritchie has not seen fit to add to it the extremely able review of Kidd's first work, contributed in 1894 to the *International Journal of Ethics*. Regarding the other chapters special mention is not needed.

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International Law. By GEORGE GRAFTON WILSON and GEORGE FOX TUCKER. New York, Boston and Chicago, Silver, Burdett & Co., 1901. — xxiii, 459 pp.

A very cursory examination of this book will suffice to show that it was not the intention of the authors to enter the field occupied by works of high scientific value, such as those of Hall and Rivier, or even by works such as those of Walker and T. J. Lawrence, but that it was their design to provide a manual for students. It is therefore as a text-book, and not as a contribution to the literature of international law, that the volume is to be estimated. The text, exclusive of appendices, covers 329 pages, and is divided into 139 sections, with numerous subdivisions; while bold-face type serves to emphasize the catch-words of the various paragraphs. The attempt to compress a great deal into a few pages necessarily requires the use of concise expressions; and if the authors do not always seem quite clear or complete in their statements, the defect may in a measure be ascribed to the inherent difficulty of their task as well as to their desire to employ language easily understood by the beginner. But, should the work be used by advanced students, its scantiness would necessitate a considerable amount of supplementary reading, and it is therefore to be regretted that each chapter is not followed with references to standard authorities, to which the reader may resort.

It is stated in the preface that "owing to the increasing importance of diplomatic negotiation, relatively more attention than usual has been given to matters connected with diplomacy." We are therefore justified in expecting to find in the treatment of diplomatic ceremonial some of that "exemplary seriousness," which has, according to Hall, characterized the German discussions of the subject. In this we are not entirely disappointed; for we are informed that among the ambassador's prerogatives is "the right to have a dais in his own house." (p. 169), and that "in processions the place of honor is sometimes first, sometimes last. For relatively short processions, certain more definite rules are observed" (p. 168).

The chapter on diplomacy, however, and that on treaties are perhaps the best in the volume. A good feature of the work is the inclusion in the text of forms of various documents, such as passports, letters of credence, exequaturs and presidential proclamations of treaties. The appendices include, besides the usual official codes and manuals of the laws of war, the recent United States Naval War Code, the United States Neutrality Laws, certain forms of procedure in prize matters and a digest of important cases in international law.

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Perhaps these cases would have been more convenient for reference, had they been printed at appropriate places as footnotes.

Among the errors which we have noticed, we may point out that the recognition of the French Republic by President Grant in 1870 is cited as the recognition of a new state (p. 45). It is said (p. 88) that the "United States interfered in the affairs of Cuba on the ground of humanity," thus implying that the legal ground of our intervention was humanity, when in fact it was the necessity of abating a nuisance — a sort of corollary of the principle of self-preservation. Likewise, in the case of Greece in 1827, the intervention is, in accordance with the popular but erroneous supposition, explained upon grounds of "humanity" (p. 87), although the powers, by the treaty of July 6, 1827, expressly declared that their object was to end a "sanguinary struggle" which, while it produced in Greece "all the disorders of anarchy, daily causes fresh impediments to commerce," and "gives opportunity for acts of piracy" which it was difficult to repress. We are told (p. 159) that "the old theory that [diplomatic] agents of the first rank had access to the ear of the sovereign is no longer held"; but this is the very ground on which the six ambassadors at Washington exercise the right of direct intercourse with the President. In summarizing Articles 50–52 of The Hague Convention relating to the laws of war, it is stated that "payment should be made for contributions." This seems to confuse contributions with requisitions. As may be seen by Article 51, receipts are given for "contributions," while requisitions either are paid for or are verified by receipts. Finally, the authors should have pointed out (p. 314), in connection with the rule as to convoy in the United States Naval War Code, that the American and English rules are directly contradictory, this being a fact of possibly great practical importance.

It should be added that the work appears generally to bring its topics up to date.

J. F. BARNETT.

COLUMBIA UNIVERSITY.

The Little Red Book of Bristol. Published under the authority of the Council of the City and County of Bristol, and edited by FRANCIS B. BICKLEY. Bristol and London, 1900. — 2 vols., 4to, xxxviii, 249, 283 pp.

To apply such a name as the "Little Red Book" to these two stately and sumptuous volumes is a paradox. It is explained, however, by the fact that they are the reproduction of a manuscript

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volume among the records of Bristol that is traditionally known by that name. Various "Red Books," "Black Books" and "White Books" exist among the English town records, as well as in the national Exchequer. They obtained their names from the color of their bindings, and were simply manuscript books of formulas, charters, records and memoranda drawn up for the convenience of the city officials. The names have little or no significance, but the nature of the records preserved in them is such as to make them particularly valuable and interesting as sources of information concerning a life which has so largely passed away. This register of Bristol dates from the fourteenth and fifteenth centuries. It was used for more than a hundred and fifty years and then, being full, was superseded as a current book of entries by a certain "Great Red Book."

The matter it contains is of great variety, including all sorts of civic material, from forms of oaths to be taken by various city officials to a long treatise on the law merchant. This last document is an extremely interesting and hitherto unknown contribution to an obscure subject. It was no doubt suggested by the commercial interests of Bristol. As is well known, the trade of that town in the Middle Ages was extensive, including Iceland, Ireland and various parts of France, Spain and Portugal. On the whole its commerce has left less impress in this record book than might have been anticipated. This is no doubt due to the fact that most of the actual importers and exporters were foreigners, the English merchants confining themselves to selling goods to the foreigners who came for cargoes and buying from them the goods they brought. Nevertheless trade correspondence with other towns, matters of admiralty jurisdiction, a copy of the sea laws of Oléron and other such entries give testimony to the fact that Bristol was a commercial town.

On the other hand, the crafts and retail-trading bodies are fully represented. More than forty sets of ordinances of various trades are recorded in this book. The weavers, fullers, dyers, leather workers of various kinds, brewers, bakers, barbers and other artisans are continually appealing to the town authorities for the approval of various regulations, mostly in the direction of a monopoly of trade for the petitioners. The barbers complain that "tailors, weavers, fullers, mariners, smiths, cordwainers and others continually poll and shave" people in the town, and submit rules to prevent this and other intrusions upon their craft. Other trades do the same. Rules for apprenticeship, for oversight of work, for prices, for length of

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service are continually being authorized by the town governors and entered in the "Little Red Book" for remembrance. A glimpse is also obtained of the lights at the shrines, the procession on Corpus Christi day and the meetings of the craftsmen in their halls on "midsomer, or All halowen" day.

Next most full to craft provisions are those for chantries. One of the most marked characteristics of the Middle Ages was the large number of endowments great and small bequeathed for the purpose of keeping up perpetual prayers for the souls of the donors and their relations. In the fourteenth and fifteenth centuries very many such foundations were established by merchants in connection with town churches. Charitable objects were also frequently provided for by assigning some of the property to the support of poor persons or to the giving of doles. At Bristol a quite appreciable proportion of the houses and shops of the town were in the possession of trustees for the carrying out of such bequests, and the "Red Book" shows the minute provisions made for administration of these trusts in cases where the mayor was concerned. It was this condition of property that offered such a temptation to the government when the Reformation sentiment had undermined approval of the objects for which the bequests had been made, and led finally to their confiscation and dissolution.

Quite apart from the interesting material for the study of mediæval institutions which this publication makes accessible, the book is a striking example of a clearly marked recent tendency in England. A generation ago the materials for the study of the history of municipalities were almost inaccessible. Local histories were, generally speaking, uncritical and devoted to mere antiquarianism. A few works like Cooper's *Annals of Cambridge* or Thompson's *Leicester* were made up almost altogether from the town records and, incomplete as they were, rose in usefulness so much above the others that they came to be quoted in England and abroad as if these were the typical towns of England. A few years ago, however, the town authorities began to awaken to the interest and value of their old manuscript records, and one after another of them has entered upon an enlightened policy of printing the records in full or abundant selections from them. The work has usually been placed in the hands of competent editors and, as the municipalities are wealthy, the books have been printed in handsome, often even in luxurious, form. The result has been the appearance of a series of noble volumes, like the records of Nottingham, of Leicester and this

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volume from Bristol. Historical students of the twentieth century may well congratulate themselves on their advantage over those of the nineteenth.

The editorial work of Mr. Bickley, so far as it can be judged of, seems to have been done very well. Careful transcription, literal translation, judicious selection, brief but suggestive introductory remarks, the occasional footnote explanation or cross reference, and all of the many phases of the important but inconspicuous work of an editor give every indication of excellence of performance. It is a valuable record, well brought out through every stage, even up to that of the printer and the binder.

E. P. CHEYNEY.

UNIVERSITY OF PENNSYLVANIA.

Municipal Engineering and Sanitation. By M. N. BAKER. The Citizens' Library. New York, The Macmillan Co., 1902. — viii, 317 pp.

Mr. Baker, as a civil engineer and associate editor of the *Engineering News*, is entitled to speak with authority on his subject. His book is a brief but comprehensive discussion of those many public or quasi-public functions falling under the general terms "engineering" and "sanitation," which are so immensely important to the well-being of city dwellers. The wide scope of these functions may be judged by the fact that the volume contains no less than forty-three chapters, each covering a fairly distinct subject. Several valuable chapters are the work of Mrs. Baker.

The author takes very high ground, not merely as to the number of the services which the city government should render, but also as to the quality of those services. Not his least contribution is the force with which he brings home the dependence of the comfort, the convenience and especially of the health of the citizens upon the performance, and the best performance, of functions which are possible only through collective action. He does not waste time in abstract discussion of the proper limitations of direct public action or of public control, but assumes that whatever the municipal government can do to increase the welfare of the people it may and should do. Mr. Baker lays much emphasis, too, on the desirability of proper regard to æsthetic values in the construction of public works.

After setting forth the nature of the service which the citizen has the right to demand in each field, the author describes in simple but

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scientific manner the technical means for securing the ends sought. The relative merits of different methods, and their adaptability to varying conditions, are briefly discussed. Perhaps the most interesting parts of the book are those dealing with "Municipal Supplies" and with "Collection and Disposal of Wastes." The imperative need of pure water is shown, and the various methods of purification, where the original supply is unavoidably insanitary, are admirably described. The desirability of checking waste of water, a matter too often neglected, is emphasized. The writer also lays much stress on the sanitary protection of milk supply. Sewerage, drainage and sewage disposal are treated forcibly and with comparative fullness; while the discussion of the disposal of garbage and refuse must bring much new light to the average citizen or public official. Other chapters urge the advantages of public baths, lavatories and water-closets — institutions as yet much less developed in American than in European cities. Public playgrounds and gymnasiums, in addition to ordinary parks, are advocated. Very suggestive, too, is the chapter on subways for pipes and wires.

If any fault could be found with a work so well adapted to its purpose, it would be that, in the attempt to be comprehensive, some topics have necessarily been treated rather superficially. Nevertheless, it was perhaps wise to call attention to the importance of many classes of functions, and to make broad suggestions as to the ways of performing them, even though limitations of space precluded sufficient treatment to permit decisive judgments. In view, however, of the extensive discussion which other writers, and indeed city people generally, have given to such broad problems as the organization of the city government, municipal finance, public franchises and municipal ownership, one may perhaps question whether the brief chapters on these topics contribute enough that is new, even to the everyday citizen, to make them altogether worth while. On the other hand, in emphasizing the importance of municipal experts and of uniform public accounting and comparative statistics, as well as in discussing the proper organization and powers of boards of health, the author will have made a distinct contribution of knowledge to most of his readers.

Mr. Baker's book ought to be widely read by students of municipal affairs, by city officials and by intelligent citizens. It will give them a higher ideal regarding the things which cities should do, will prove most suggestive as to the manner of doing them and will stimulate further investigation.

E. DANA DURAND.

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The Early Trading Companies of New France. By H. P. BIGGAR. (University of Toronto Studies in History.) University of Toronto Library, 1901. — xii, 308 pp.

This is a scholarly, well-written monograph, tracing the birth and growth of French commercial relations with Canada during the hundred years from Cartier's voyages to 1632, when Canada was retroceded to France by England. Mr. Biggar's work is based on an extensive study of the original sources, especially those contained in the archives at Paris, London and Rouen. His statements are carefully annotated as to their authority, and a critical bibliography, occupying nearly as much space as the text, lends additional weight and value to the work.

Mr. Biggar's purpose was to write a history of the early commerce between Canada and France. Unfortunately he adopted the narrative and chronological form, which does not lend itself readily to a work of this character. He has devoted too much space to the framework, the history of Canada. The result is a history of the first century of French efforts at colonization in North America, in which especial stress is laid on the commercial intercourse between the colony — if such it can be called — and the mother country. To our knowledge of this early history of Canada, Mr. Biggar adds but little; his account differs but slightly from that published recently by Mr. Lucas, which adequately represents the present state of our knowledge of the subject. On the other hand, Mr. Biggar throws some very interesting light on early French commerce in America; a happier arrangement would have rendered this really valuable information more accessible.

Especially useful is his explanatory account of the Newfoundland fishery. He shows how this industry was the mother of the Canadian fur trade, and how in turn that became the foundation and corner stone of French colonization on the American continent. The fishing trade, in course of time, became twofold in nature: the "green fishing," not requiring a territorial base, as the fish were cleaned and salted at sea; the "dry fishing," necessitating establishments on shore where the fish could be dried. Through these temporary fishing establishments, trade in furs with the Indians developed. The fishing and fur trades soon grew to valuable proportions, but there was only a slim possibility that, in an age of such intense international competition, France would be allowed to enjoy these advantages, unmolested by other nations. The number of foreign vessels entering the Gulf of St. Lawrence increased year by year, and as

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France had no permanent settlement in these regions, it was patent that there was a grave danger that some other nation, by establishing a colony, would oust the French from these lucrative branches of commerce. Hence recourse was had at various times to giving a monopoly to a few merchants, who bound themselves to take out a certain number of colonists every year. All these attempts were unsuccessful. The colonizing conditions were evaded by the successive monopolists, and in 1628 there were but two families of colonists in New France.

This in outline is the instructive story which Mr. Biggar tells with great wealth of detail. He shows forcibly that there was no social movement in France towards colonization and that the establishment of a colony in Canada was due to the desire to protect the fisheries and fur trade. It was an expedient adopted to prevent other nations, especially the English, from competing successfully in these industries. French colonization of Canada did not respond to any direct social or economic impulses of the French nation; it was more of the nature of a makeshift, a means of insuring their valuable commercial relations with the New World. Thus it differs radically from English colonization in North America, and resembles closely in its causative influences the movement leading to English political predominance in India.

Before closing a word of praise should be bestowed on the book from a mechanical standpoint. The printing, paper and binding are of rare excellence. A slip (p. 103) should be corrected: instead of "the peace of Loudron in May 1615," it should read "the peace of Loudun in May 1616."

GEORGE LOUIS BEER.

NEW YORK CITY.

Currency and Banking in the Province of Massachusetts Bay. By ANDREW MCFARLAND DAVIS. Part I: *Currency.* 1900. xiv, 473 pp. Part II: *Banking.* 1901. xii, 372 pp. Publications of the American Economic Association. New York, The Macmillan Company.

No other topic in American economic history has been treated with anything like such completeness and minuteness as are shown in these two monographs. The history of government paper money in the colony and province of Massachusetts has been written before in general terms, but the present work, in its first part, gives us all the details which prolonged and painstaking investigation could

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furnish. Not only have we here an account of the numerous issues of bills of credit from 1690 to 1749, the very forms of the plates being precisely described; but the discussions regarding these issues, the many schemes for restoring specie and checking depreciation, and the devices for adjusting debts are fully set forth. Very interesting is the narration of the almost incessant struggle between the representatives of the people, who demanded inflation, and the royal governors, who sought to check it. Partly through the influence of the governors, partly, apparently, because the desire for an excessive currency was less strong in Massachusetts than elsewhere, the circulation of the bills of that colony itself increased but little from 1716 to 1743. The chief cause of the increasing depreciation during these years was the flood of paper issued by Rhode Island, which passed generally in Massachusetts. Mr. Davis describes briefly the issues of this and the other adjoining colonies.

The author's discussion of the economic lesson of this early New England experience seems to add comparatively little to our knowledge of monetary principles. He presents various tables of depreciation as measured in silver, but fails to establish any very close parallelism between the degree of depreciation and the amount of outstanding paper, whether of Massachusetts or of all the colonies. We find also little new evidence as to the effect of inflation on prices, wages, the relations of debtors and creditors, foreign trade, or general prosperity. Doubtless accurate information on these points is simply unobtainable.

The actual banking experiments in Massachusetts Bay were few and of short duration. The most important were the "land bank" and the "silver bank," both started in 1740. In narrating the history of these institutions Mr. Davis has made his most notable contribution. The land-bank scheme was particularly curious. The so-called stock consisted merely of mortgages on land. The borrowers took their loans in the form of bills issued by the directors of the company of which they constituted the partners. They were bound to pay three per cent interest and five per cent on the principal annually, either in the bills or in specified articles of merchandise at their market value in silver. The bills they proceeded to circulate as money, although they were not redeemable on demand, but only after twenty years, and then in commodities, not in specie. The partners, however, agreed to accept the bills in all payments to themselves. How freely or at what rates these notes actually circulated we are not told, but in any case the experience was too short

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to give the scheme a chance to work out its results. Both the land bank and the silver bank were brought to a sudden halt in 1741 by an act of Parliament.

It may perhaps be questioned whether our author has not treated his subject with unnecessary fullness. To devote more than 900 pages to the currency experiences of a single colony a century and a half ago, experiences whose lessons have long since been learned, at least by intelligent people, and which are taught with greater force by much more recent history, seems to the present reviewer to savor of supererogation of scholarship. Throughout we find many details which appeal only to the antiquarian. They are interesting in a way, but not because of their economic significance. This is especially true of the part on banking. The schemes above mentioned were so obviously "half baked," that, even had they continued long enough to demonstrate clearly their folly, they would have taught us little as to the possibility of banking based on land or other commodities. A large amount of space is taken up with summarizing the almost innumerable books, pamphlets, projects of law and discussions regarding banking which appeared both in England and in America during the seventeenth and eighteenth centuries. While these all have a curious interest, and while some of them have a real historical value from their influence on modern banking practice, many are but shallow and ephemeral, comparable to the deluge of cheap publications on money questions issued in the United States during recent political campaigns. The trend of thought might have been shown clearly, we think, with greater brevity. As an illustration of unnecessary minuteness may be cited the long and excessively detailed account of the way in which the appropriation by the British Parliament to reimburse the expense of the Louisburg expedition was pushed through to final enactment, and the circumstantial description of the methods employed in collecting and transporting the money. And again, an inordinate amount of space is devoted to the history of the prolonged negotiations for settling the claims left outstanding after the closure of the land bank, though the amount of these claims was quite insignificant. While the thoroughness and accuracy of Mr. Davis's work deserve high commendation, they could have been secured in less space, to the advantage of the reader.

E. DANA DURAND.

HARVARD UNIVERSITY.

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The American Farmer. By A. M. Simons. Chicago, Charles H. Kerr & Co., 1902. — 208 pp.

This book is a socialist interpretation of American agriculture. The main thesis is that the farmer is economically exploited by the exaction of interest, by excessive railway and elevator rates and by capitalistic monopolies.

> All the surplus wealth, above subsistence for the farmer, steadily gravitates into the hands of the city dwellers, either in the form of railway tariffs, interest, commission, profits, or some form of charge upon production, leaving to the farmer often less than the wages of the city wage worker [p. 63].
>
> [The farmer is] little more than an employing agent and resident supervisor for the exploiting class, who are really extracting surplus value from both the farmer and his hired man [p. 108].

The author therefore concludes that the farmer and the proletariat should make common cause against the existing order.

The trouble with this conclusion is with the premise upon which it rests. The payment of interest is not a symptom of economic thraldom. Rather is it the stepping-stone from tenancy to farm ownership. Eighty-three per cent of farm mortgage indebtedness, according to the eleventh census, was for purchase money and improvements. Moreover, the rate of interest has fallen fully two per cent within ten years. Instances of exploitation no doubt exist. The crop-lien system in the South is a case in point. But this is in consequence of the thriftlessness of the croppers, who borrow for consumption rather than for production.

As to railway and elevator rates, the author unduly magnifies extortion. The transportation and elevator systems of the United States compete not only with each other but also with those of Argentina and Russia. As a consequence, while the price of wheat in Chicago and Liverpool has fallen, the farm price west of the Mississippi has remained about the same for thirty years. Even when rates have been adjusted to what the traffic will bear, they have often been little more than sufficient to cover operating expenses. The eastern farmer has complained that rates from the interior to the seaboard have been too low.

Lastly, the author exaggerates the power of capitalistic monopolies. With fat cattle selling in the Chicago market above seven dollars, it is evident that there is a limit to the exploitation of the farmer by the great packers. The feeding of cattle must be as remunerative in the long run as the raising of horses, mules, wool or grain. The

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barbed-wire trust is obliged to sell in competition with independent producers, and when the price rises unduly the farmer defers buying. The volume throughout neglects the competitive struggle of capitalists with each other and the frequency with which the farmer rises to a competency.

The style of the book is readable and the point of view is novel. The author should also be credited with having assembled a large number of interesting facts, with references by pages to the sources from which they were obtained.

C. F. EMERICK.

SMITH COLLEGE.

Monopolies Past and Present. An Introductory Study. By JAMES EDWARD LE ROSSIGNOL, Ph.D. New York, T. Y. Crowell & Co., 1901. — 256 pp.

Trusts and the State. A Sketch of Competition. By H. W. MACROSTY, B.A. London, Grant Richards, 1901. — viii, 318 pp.

The object of Dr. Le Rossignol's book is "to provide an historical introduction to the study of monopolies for the use of busy men." Accordingly, after presenting a brief discussion of the nature of monopoly, the author devotes the remaining chapters to ancient monopolies, gilds, exclusive trading companies, patents, municipal monopolies, railways and capitalistic monopolies. To the specialist, naturally enough, such a work will be of slight value; but it seems to be tolerably well adapted to the needs of the larger constituency for which it was designed.

Monopoly is defined by Dr. Le Rossignol as "the control of the supply or the demand of an economic good, by one person or a combination of persons, to such an extent that that person or combination of persons is able to control the price of the economic good." He explains, furthermore, that "no monopoly is entirely free from the influence of competition"; and that "seldom is competition so fierce as to leave no opportunity for monopoly and monopoly profits." The "primary and fundamental cause of monopolies" he finds in the selfish impulses "deep-seated in the human heart"; and he believes that, while "economic conditions are as they are," it is wise to be careful in passing judgment upon people who "take as much as the law allows and give as little as the law requires."

The historical part of the book will probably meet the requirements of the readers for whom it is intended. It might be suggested that the treatment of the English merchant and craft gilds

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lacks definiteness and precision, although we can readily understand the difficulties inherent in the task of writing a mere sketch of such a difficult subject. In the chapter devoted to exclusive-trading companies, however, it is to be regretted that the author has so little to say about the early history of joint-stock undertaking and the development of the idea of the business corporation.

The chief interest of any book upon monopolies lies in the treatment of the modern movement toward industrial consolidation. Dr. Le Rossignol believes that, when the "industrial revolution destroyed the mediæval organization of industry and established the system of industrial liberty," the growth of capital and the intensification of competition finally produced a condition of "comparative anarchy" in many lines of production. He considers the modern trust to be a new organization that has arisen in place of the regulative institutions of mediæval times, and his concluding chapter presents the familiar arguments in favor of industrial combinations.

A similar line of thought runs through Mr. Macrosty's *Trusts and the State*, which constitutes the second volume of the Fabian Series. This work deals primarily with English economic conditions since the industrial revolution. Mr. Macrosty would divide the history of British trade into three eras — "the mediæval, the *laissez faire* and the modern," in which the dominant ideas have been, respectively, "privilege, competition and association." His earlier chapters treat of the "achievements of competition" during the first half of the nineteenth century, the development of the abuses that resulted in the factory legislation, and the ultimate intensification of competition to such a degree as to lead to what he considers industrial anarchy. The concluding chapters then trace the growth of the movement toward combination, and predict the final "collectivisation" of production.

Mr. Macrosty's book deserves respectful consideration from all economists, as it is the most important contribution made by any avowed socialist to the discussion of the trust problem. The author's premises are the same as those of all writers who look upon the trust as a necessary and desirable product of the modern competitive process; but Mr. Macrosty has no difficulty in perceiving where this line of argument logically leads us. After contending that competition is a destructive and self-annihilating process, he wastes no words over "potential competition" and "publicity," but argues manfully that "collectivisation" is the only possible outcome of the combination

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movement. His book will render a real service by showing whither many of the current theories inevitably lead.

Since the reviewer has criticised elsewhere the general lines of argument followed by Mr. Macrosty, he considers it unnecessary to repeat such criticism here. The book contains many minor propositions that will not bear examination. Thus the author says:

> The typical capitalist of to-day is not the *entrepreneur* but the shareholder, and instead of receiving wages of management he pays them. An industrial society based on the supposition that the desire for private gain was the only effective motive for action has thus lost one of its chief supports [p. 131].

Now it would be interesting to know how Mr. Macrosty would undertake to prove that "the desire for private gain" is not the motive that animates both the stockholder and the hired manager. Again, our author says: "We can measure the intensity of competition by the steady fall of prices throughout the last thirty years." He recognizes, however, that there "has been a steady rise since 1896" (p. 108); but does not tell us whether this indicates that there has been a relaxation of "the intensity of competition." Yet the rise of prices in recent years is no more troublesome for his theory than it has been for some of the others that were advanced to explain monetary changes from 1873 to 1896.

The chief significance of the book lies in the fact that the author follows to its logical outcome the theory that modern competition has become a destroying and self-destructive process. Yet the eighth and ninth chapters present much information about combinations in England, and Chapter VII contains a valuable account of certain unfortunate results of joint-stock undertaking in the same country. Some of the concluding chapters upon trades unions, coöperation and the standard of living present the usual views of our Fabian friends upon those subjects.

CHARLES J. BULLOCK.

WILLIAMS COLLEGE.

The Anthracite Coal Industry. By PETER ROBERTS. With an Introduction by W. G. SUMNER. New York and London, The Macmillan Company, 1901. — xii, 261 pp.

This volume is the first attempt that has been made to give a comprehensive account of the great anthracite coal industry. According to the subtitle it is "A Study of the Economic Conditions and Relations of the Co-operative Forces in the Development of

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the Anthracite Coal Industry of Pennsylvania." The scope and method of treatment may be gathered from the author's introductory discussion (p. 2):

> The object of the present work is to trace the history, development and present conditions of the anthracite coal industry. . . . We treat the subject from the economic stand-point, relative to the deposits of coal, the method of working them, the cost in money and muscle, the wages and profits of the men engaged in the industry, the friction between capital and labor, *etc.*

These subjects are discussed in eleven chapters, which are well illustrated by maps and charts; and the treatise closes with a chapter containing the author's reflections.

The book contains a large amount of interesting and useful information not before brought within the compass of a single volume; but it is not of equal merit throughout. By far the best parts are those which are purely descriptive, where the author gives a presentation of facts as he has found them. When the attempt is made to reason to certain conclusions the results are often not warranted by the facts given, and not infrequently they are contradictory to what appears on the same phase of the subject in other parts of the treatise. Thus, in the first chapter (pp. 12–16), which deals with the coal deposits, after the author has shown that the anthracite coal industry is destined to come under monopolistic control, he states that, under wise management, the employees will share in the benefits to be secured under such control. Production will soon reach its maximum; the mines will not be able to produce more than the market demands, "a condition which will give all the shafts and employees nearly full time"; and this will help to solve the problem of surplus labor. But how all the shafts and all the employees are to be engaged nearly full time is not shown. On the contrary, it is shown in the chapter on transportation (pp. 78, 79) that in order to increase its profits the syndicate is likely to suspend operations in the most expensive mines, and to reduce the expenses of management and cost of production in the rest. To shut down a number of the mines would certainly not help the surplus-labor problem; and to reduce the cost of production by reducing wages and by improvement in the art of mining and handling the coal, the two ways in which the author states it can be done (chapter on "Employees and Wages," p. 124), would simply aggravate the situation. On page 124 the statement is again made that the evil of surplus labor can be largely eliminated, and on the next page statistics are adduced to show that fully one-fourth more men are

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engaged in the industry than are needed; that 30,000 now employed in it "could be transferred to some other occupation, while the 110,000 remaining could produce the amount of coal needed to meet the market demand at remunerative prices." And yet in the face of this statement, the writer only three pages farther on again asserts that the syndicate "can so manage the industry that every honest worker . . . can get regular employment and be protected against the evils of surplus labor." How such conflicting statements can be reconciled it is difficult to see.

Other inconsistencies may be noted in the treatment of the relation between fixed charges and cost of production (pp. 33, 34); in the discussion of economic loss, in the chapter on accidents; and in the discussion of the estimated cost of strikes in Chapter IX. Some of these defects may, perhaps, be partially explained by the fact that the material is not well arranged; others by the fact that some of the material has not been well digested. One is constantly surprised to find certain phases of the subject discussed in the most unexpected places. Moreover, there is in most of the chapters, and especially in the last, a considerable amount of discussion that is trite and entirely irrelevant. The most elementary economic theories are often expounded at length before they are applied in explanation of simple industrial conditions; and various social theories are needlessly exploited to criticise or condemn the unwise actions of those engaged in the industry. The reader might have been credited with at least some knowledge of these theories. It is to be regretted that the author has not kept well to his main purpose, as set forth in the opening pages of the volume, and produced a thoroughly digested treatise on the economic aspects of the subject.

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Die Ockonomische Entwickelung Europas bis zum Beginn der kapitalistischen Wirtschaftsform. Von MAXIME KOWALEWSKY. Vom Verfasser genehmigte Uebersetzung des Russischen Originals. Band I: *Römische und Germanische Elemente in der Entwickelung der mittelalterlichen Gutsherrschaft und der Dorfgemeinde.* Berlin, Verlag von R. L. Prager, 1901.

This volume is an attempt by a man whose learning has made him prominent for many years in the field that he explores to trace the sources of the law of real property in Europe. He states in the preface his conviction that this work can be accomplished only by

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means of the comparative method. If this be true, it is to be feared that the work will never be satisfactorily done at all. M. Kowalewsky is, indeed, one of the very few living men whose vast accumulation of knowledge, acquired through long and arduous study of the early laws of many lands, would enable them to apply this method; and in his hands it is possible that it would lead to results more permanently acceptable than those, for example, contained in the works of Sir Henry Maine. In spite, however, of his expressed preference for this method, our author seldom reaches his conclusions by means of it; the numerous comparisons that his wide learning enables him to draw are used to illuminate a chain of thought, to illustrate conditions he would describe, rather than to convince us of facts about which he has no other proof. Even more than is the case with most other laborers in this field, M. Kowalewsky bases his conclusions upon the written sources of our information. He alludes almost in a tone of contempt to the efforts to explain the facts of settlement and development by means of the known psychological characteristics of a people, and on this ground he attaches no great importance to the conclusions reached by Meitzen in regard to the problem under discussion. It is, he says, the necessity for maintaining security, the desire to effect a social organization in accordance with the prevailing economic condition, that will determine a people's institutions. In this we agree with him; but it is just this that makes the comparative method which he advocates fully as inadequate as the psychological which he repudiates.

After all it seems, then, that in our search for the origin of modern institutions almost the only trustworthy materials adapted to our use are the laws, records, charters, cartularies — in short, the writings — that have come down to us from the time of the earliest beginnings. Now this is disheartening. For the collections of these materials available to the student are scanty, their form is often mutilated and their language ambiguous. Unless, therefore, considerable additions be made to these collections, much of what we should like to know about mediæval institutions must always be hidden from us, and much even of what we think we know must partake more or less of the nature of ingenious theories in which plausibility is substituted for proof. No book of recent years bears stronger testimony to this than the volume before us, not the least merit of which, indeed, is the author's candor in confessing in many cases that we can only guess at explanations — a candor that is equalled by his moderation in refraining from doing the guessing. Very numerous indeed are

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the theories that M. Kowalewsky has punctured, and great is the havoc he plays with notions hitherto widely accepted. In case of no branch of the German people does he fail to find flaws in the investigations of previous writers concerning the history of landownership. But his work is not merely one of destruction. On the ground that he has cleared he is able to build anew, and this he does partly by means of material hitherto unused, partly by a new application of materials that have already done long service. The structure he erects is not so complete as the composite building which he destroys, but it is shapely and it seems to be firm and durable.

We say that M. Kowalewsky's work *seems* to be durable. The care with which he marshalls his facts, and the air of impartiality with which he weighs all his testimony, to us is very convincing. But so much depends upon the interpretation of materials which are acknowledged to be ambiguous and which few of us can examine for ourselves, that the reader is bound to see that many of the views he would most gladly accept are still open to attack. This is exemplified in the account of landownership among the Lombards. The only direct testimony we have about the manner in which the land in the territory overrun by these people was divided between them and their Roman predecessors consists in the work of Paulus Diaconus, and all acquainted with this writer will agree with what M. Kowalewsky says about the difficulty of his style and the vagueness of his meaning. Relying, however, mainly upon him, our author tells us that in the first arrangement between Lombards and Romans no radical changes were made in either the ownership or the possession of the land; the Lombards were content with diverting to themselves one-third of the produce of the soil hitherto paid over by the cultivators to their Roman lords. But with the establishment of the kingship in the person of Autharis there occurred a fundamental agrarian revolution. The Lombard nobles who felt the exactions of the king attempted to recoup themselves from the Romans, and this led to a new arrangement. Disagreeing with Vinogradoff and others, M. Kowalewsky thinks this new arrangement consisted in such a division of the *coloni*, together with their land, that no longer merely a part of the produce but a part of the land itself and its cultivators passed into the ownership of the Lombards. This opinion he bases mainly upon the use Diaconus makes of the words *dividere* and *partire*, the first of which he takes to mean any division, the second a division by which the shares pass into the permanent ownership of those receiving them. Other instances of hazardous textual

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construction might be adduced, but this suffices to justify us in doubting that M. Kowalewsky has spoken the last word about facts on which he is willing to express himself most positively.

So much for our author's method, which, in spite of its limitations, has enabled him to make invaluable contributions to our knowledge of early institutions. It would be interesting to point out what these contributions are, but to array them in logical order would necessitate giving a rather full abstract of the whole book. It must suffice, therefore, to mention a few points of special significance.

The main purpose of the volume is to show what elements of feudal property were Roman and what Teutonic. To do this our author begins with a description of the agrarian organization in Italy and Gaul under the Roman Empire. Fustel's conclusions are pronounced to be one-sided and incomplete ; for they are reached by attaching to the terms *villa*, *massa*, *fundus*, *etc.*, the same meaning they bore in the classic age, which is shown to be wrong. Seebohm also is found to be in error in attributing to Roman influence the system of open or common fields with their intermixed strips ; for amongst the Romans this system prevailed only in the colonies of veterans settled in the *ager publicus*. Real resemblances, however, between the Roman and mediæval systems are pointed out tersely and graphically, and it is afterwards shown that many of these are not accidental. The second chapter gives an account of the economic conditions of the Germans in the time of Cæsar and Tacitus. Amongst them the land was in the ownership of the clans (*Geschlechtereigentum*) ; but it was abundant, so that each family might freely take possession of as much as was needed (*freie Besitzergreifung*) and hold it in temporary occupation without thereby abolishing community ownership. M. Kowalewsky then takes up in separate chapters the subsequent developments among the different branches of the German people. These developments were of course along very different lines, and we cannot find that the comparative method offers much assistance in the attempt to trace them. The Ostrogoths, during their short domination in Italy, effected no change except that the *adscripti glebae* acquired freedom from their attachment to the soil, a freedom that they afterwards lost under the Lombard rule. Among the Visigoths, especially in Spain and Aquitaine, all available evidence testifies to the complete triumph of the principles of the Roman organization. The Franks and the Burgundians modified in some degree but did not abolish the Roman system. With them, as also with the Alemanni, it was chiefly the influence of the

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king and the church that led to a gradual substitution of the Roman law of private property for the Germanic system of community ownership. Among the Anglo-Saxons likewise development begins with the clan organization. Our author accepts Vinogradoff's explanation of the terms "Bocland" and "Folcland" and disagrees with Pollock and Maitland's opinion that the king ever required the consent of the ecclesiastical and lay lords in disposing of the former. For the alienation of Folcland at first the consent of the other members of the clan was necessary, but the influence of the king and the church broke down the principle of blood relationship and the consent of the king and the Witan was substituted for it. The free disposal of his holding by the peasant was foreign to the Anglo-Saxons; the principle was borrowed from the Roman law, introduced under ecclesiastical influence and eventually led to the inequality of the holdings within the village community.

Much of the volume is necessarily devoted to the discussion of social organization. Without following him into details, it should at least be remarked that he finds the mediæval system of serfdom, the *Hörigkeits* system, incomplete anywhere before the end of the eighth century. It was formed from many elements, some free and some unfree, some derived from the Romans and some imported by the Germans. The free community in the earlier period actually existed and was no mere fancy, as Fustel and Seebohm maintained. In England in the eighth and ninth centuries the large estates — the manors — were just in process of formation, and the greater part of the peasants were still free.

It remains to be said that M. Kowalewsky's book is hard to read. Either the translator has done him little justice, or his style is difficult, intricate and very dull. There is much in the text in the way of comparison and even of evidence that would more appropriately appear in footnotes or appendices, where it would not so seriously divert attention from the argument. Especially are we entitled to condemn as an imposition on the ardor of the student the failure to provide such a book with any sort of summary, index or table of contents. He, however, that surmounts these difficulties will find that M. Kowalewsky has made the most important contribution of recent years to the literature concerning the beginnings of our civilization.

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The Science of Penology. By HENRY M. BOIES. New York, G. P. Putnam's Sons, 1901. — 459 pp.

This book purports to present the subject of the criminal, and the treatment of the criminal by the state, in a systematic form as a distinct science, — the science of penology.

The method employed is that of analogy. The author classifies the matter of his "science" under the heads of Diagnostics, Therapeutics and Hygienics. These terms are used in accordance with the author's notion that

> penology . . . is similar to the science of medicine and surgery in that its province is not only to cure specific cases of disease but also to prevent the genesis, recurrence and spread of disease. The disease of criminality must be abstractly investigated, treated and controlled by measures of the same kind as those which have dealt successfully with the other great maladies afflicting humanity. It will be subdued if at all, or so far as it is possible, just as smallpox, cholera, yellow and typhoid fevers, diphtheria, and tuberculosis, those once incurable and terrible diseases, have been — by scientific investigation and the discovery and application of appropriate remedies and prophylactics.

We turn, therefore, to the section on diagnostics expecting to find a detailed examination of the physiques of typical criminals, with some conclusions as to the seat of the disease and the cause of the diseased condition of the organs. We find nothing of the kind. The section is devoted merely to more or less interesting talk about the characteristics and classification of criminals, as set forth by Drähms and Ferré, the classification of crimes, methods of detection and identification of criminals, criminal codes and machinery for the state control of criminals. There is nothing original in these pages. Furthermore, the investigations of some acknowledged authorities, as, for instance, those of Josiah Flynt, are not referred to. Hence the author's use of the term diagnostics is unscientific. He has carried over from physiology a term denoting, in that science, the description of bodily symptoms of disease, and has used it to cover certain observations which are not such a description and have only a very faint analogy thereto. Indeed, he goes so far as to admit that there is, as yet, no certain and systematic account of the bodily symptoms of criminality; in other words, there are no diagnostics of criminality:

> The comprehensive anthropological and psychological examinations made by skilled scientists have so far failed to establish any invariable diagnosis of criminality previous to the overt crime. They have demonstrated

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that a large proportion of criminals possess certain physical, mental and moral characteristics; but not that all possessing such characteristics are criminals. It has been found, besides, that not even all of those who have been convicted of crime belong to the criminal class.

Thus the author's science of penology is merely an analogical grouping of certain facts; it is not a science.

The absurd extent to which Mr. Boies carries his analogy is evident from his analysis of the causes of crime:

Physicians recognize three kinds of causes of disease: the procatarctic, which is an antecedent condition of things outside of the principal cause, facilitating the production of the effect; the proegumenal, or that within the principal cause which either predisposes or directly excites it to action; and the synectic, or continent cause, which is the essence of the disease itself, considered as the cause of the symptoms. Applying these terms to our analysis, we find that moral depravity or degeneracy may be denominated the synectic cause of criminality. This is an abnormal and unnatural condition of the organic structure of the human system, which necessarily produces faulty and erroneous function. This organic abnormality may be of physical, mental or moral system. . . . The proegumenal cause exists in the abnormal relations of the organs, or their unnatural operations. . . . The procatarctic causes of moral depravity are those which produce the defective or diseased condition of the human organism and its faulty functions.

We need go no further to show how completely the author is under the control of his invalid theory of "penology." His ignorance of scientific method is evident from his use of the term "law." Some examples are as follows:

It is its law: That criminal jurisprudence must provide for the proper separate care and training of neglected and delinquent children and juvenile offenders.

Science formulates this law: That society must secure protection from crime and the social disease of criminality by treatment of individual criminals.

It is a positive law of Penology: That the restriction of criminality depends mainly upon prevention of ~~the disease of~~ moral depravity.

It is, then, a law of modern Penology, that every person convicted of crime must be kept in confinement until cured of the disposition to commit crime.

It is a law of our science that convicts in confinement need, and are entitled to receive from the power which confines them, skilful professional treatment.

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Nothing could show more clearly how completely the author has failed to grasp the rudiments of scientific method than his use of the term "law" to denote a recommendation for practical procedure.

In the second part of his analogy the author groups under the heading Therapeutics his observations as to the proper treatment of criminals by the state. His scheme is this:

> Science requires the state to provide reformatory prisons for the first confinement of her convicts, and that they shall be sentenced to such reformatories under an indeterminate sentence. . . . As soon as it can be decided that disease of a convict in the reformatory is so obdurate and deep-seated as to be incurable, provision must be made by law for his removal to a penitentiary intended solely for secure confinement and economical maintenance.

Curable cases are to be confined in the reformatory until cured. Then follows an uncritical review of the work of the Elmira Reformatory, together with a eulogy of Mr. Brockway, showing that the author is led to make the reformatory the centre of his system, not so much from a judicious estimate of the results of the work at Elmira, as from an unqualified admiration for Mr. Brockway. Of the latter he writes: "To him is due the credit of having not only practically invented, but, what is much more difficult, proved by actual use, the inestimable value of the indeterminate sentence." And again: "There is no better statement of the position of modern penologists than that made by Mr. Brockway himself." Then follow the latter's statements as given in *The Reformatory System in the United States*, p. 22.

Now we do not object to the eulogizing of Mr. Brockway nor to the attempt to propagate the latter's views. But we demur when Mr. Boies makes bold to call his propaganda "science," and particularly when his enthusiasm leads him to ignore plain facts. Any historical student could inform Mr. Boies that Mr. Brockway was *not* the inventor of the indeterminate sentence. This scheme originated in the ticket-of-leave system, which was in vogue in the penal colonies of England in the eighteenth century and was legalized by George IV for the penal colonies. In 1857 it was extended to men confined in hulks, and in 1867 to prisoners confined in penitentiaries. Barring the maximum period of imprisonment involved in the ticket-of-leave system, the only difference between it and the indeterminate sentence is that the length of the term of imprisonment depends in the former on good conduct, in the latter on the period required to "cure" the convict. Mr. Brockway's invention

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consists therefore in the notion of "curing" convicts, and the value of his invention depends on how far he can cure.

Mr. Brockway estimated that 83.4 per cent of the convicts paroled from the Elmira Reformatory up to September 30, 1899, were reformed. He based this claim on the fact that this is the percentage who either were never heard from again or were favorably heard from. However, it is probable that many whom Mr. Brockway, on these grounds, regarded as reformed were rearrested under other names and found their way into jails and prisons. Whatever we may believe, it never yet has been proven that the methods employed at Elmira are more "curative" than those employed at Auburn or Sing Sing. This breaks down Mr. Boies's nice mathematical demonstrations that Elmira is an economical way of caring for criminals. Mr. Brockway and his friends have still to prove that it is not an unprofitable burden for the taxpayers, and hence that their hospital is not a sentimental whim indulged in at the expense of the welfare of society as a whole. If Mr. Boies wishes to propagate Mr. Brockway's ideas, he would do well to turn his attention to this statistical problem rather than to waste his time in deducing a "science of penology" out of his smallpox theory of criminality.

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Manuel théorique et pratique des opérations de banque. Les banques de depôt, les banques de crédit, et les sociétés financières. Par ANDRÉ E. SAYOUS. Paris, Larose, 1901. — 344 pp.

The almost exclusive attention given by Continental writers to banks of issue leads the reader to anticipate much from a book in which, as the title suggests, the author has consciously turned his attention away from that familiar field. M. Sayous sees very clearly the need of the study of other financial institutions, on account of their intrinsic importance and as essential to any real understanding of the nature of general banking questions. Somewhat more than half the volume is devoted to banking operations, from discounts to the organization and flotation of new companies, and is followed by chapters upon the organization and working of banks in France, Germany and England.

The purpose and general plan of the work are admirable; unfortunately its execution is such as to render the book nearly if not quite valueless. The exposition is vague and inconclusive; for there is practically no analysis of actual conditions resting upon concrete

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illustrations from the operations of particular banks and from incidents in contemporary history of the money market. Much might be excused on account of limited space, which, from the variety of matters considered, must have given the exposition a somewhat fragmentary character, even if the author had used his resources economically and to the purpose. In fact, however, valuable space in many chapters is filled with vague though violent denunciations of existing banking methods, French banks in particular being most bitterly assailed. These diatribes are due in part to misconceptions of the proper functions of banks and in greater degree to an unconcealed belief in the inefficiency and even dishonesty of those in control. The comparative unprogressiveness of French industry is laid at the doors of the large French banks, which, having absorbed most of the local private banks, draw the savings of the country to Paris, where they are used to further speculation on the bourse and in the purchase of foreign securities. The unwillingness of the banks, not to make ordinary loans, but to grant advances of the cash-credit type formerly in vogue in Scotland, is the only reason given for this interesting belief. In the chapter upon the issue of new securities the author is even more unrestrained. The reader is reminded of the methods of the Anglo-Bengalee Disinterested Loan and Life Assurance Company in *Martin Chuzzlewit.*

A single example will be sufficient to give an idea of the method and spirit of the book. In the course of a discussion of the value of the ordinary bank statements given out to the public, an account of the Deutsche Bank is inserted (one of the few illustrations in the book), and the author remarks upon the arrangement of assets with reference to their varying degree of liquidness:

> RIEZ DR. SIEMENS! Sur ce canevas brodent sans cesse des employés ignorant *totalement* les questions de banque. Si vous étiez tant soit peu financiers, député, ancien député, officier démissionaire et diplomate hors service, que la toute puissance d'un ami ou d'un beau-père a transformés brusquement en administrateurs, vous ne toléreriez pas de pareilles sottises, alors même que vous chercheriez surtout a étonner par la vague apparence d'études "scientifiques" le bon public et les souverains étrangers.

The book is throughout in the manner of the pamphleteer and can not in the slightest degree be regarded as an economic treatise. The author promises further volumes upon various economic and financial subjects if the present work is favorably received.

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RECORD OF POLITICAL EVENTS.

[From November 10, 1901, to May 10, 1902.]

I. THE UNITED STATES.

FOREIGN RELATIONS. — After the failure of the Hay-Pauncefote treaty of 1900, dealing with the Isthmian Canal (see RECORD for June, 1901, p. 370), negotiations with Great Britain were resumed with the design of meeting the objections raised by the Senate. The result was a convention, signed November 18, 1901, that provided for a complete **abrogation of the Clayton-Bulwer treaty** and assured to the United States the sole right to construct and maintain the canal, together with the necessary power to police it. Great Britain also agreed to withdraw from the joint guaranty of the neutrality of the canal, on condition that the United States would agree to accept substantially the rules now governing the free navigation of the Suez Canal. A further proviso, however, was added, to the effect that no change in the sovereignty, or in the international relations, of the countries traversed by the canal, should alter the general principle of neutralization. The Senate ratified the treaty, December 16, by a vote of 72 to 6. — **The choice of a route for the proposed canal** has been actively debated. On December 9 a protocol was concluded with Nicaragua, arranging for a lease of territory through which the canal would run by the Nicaraguan route. The final, as well as the preliminary, report of the Isthmian Canal Commission favored this route, chiefly on account of the financial difficulties in the way of acquiring the property and franchises of the Panama Canal Company. But on January 4 the Panama Company made a formal offer of its property and franchises to the United States for $40,000,000, the valuation which the Canal Commission itself had placed upon the work already done on the Panama route. The Commission thereupon recommended an acceptance of the offer. This led Nicaragua and Costa Rica to withdraw from the protocols made with the United States, December 1, 1900, in connection with the defunct Hay-Pauncefote treaty, and on February 27 Colombia forbade the Panama Canal Company to transfer its concession to the United States until it had fulfilled certain stipulations in its contract with the former state. Negotiations have since been instituted with Colombia, Nicaragua and Costa Rica to determine the bases for future arrangements in regard to the canal, whenever Congress shall have fixed the route. — A series of somewhat desultory negotiations resulted in a treaty with Denmark, January 24, providing for the **acquisition of the Danish West Indies.** According to the terms of the treaty as unanimously approved by

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the Senate, February 17, Denmark ceded the islands to the United States for $5,000,000, and Congress undertook to determine the civil rights and political status of the inhabitants, without detriment to the privileges already enjoyed. The people, however, were to have two years in which to declare their allegiance. The treaty also provided that, in case of a disagreement over its terms which could not be settled by ordinary diplomatic methods, the subjects in dispute should be submitted for decision to the permanent court of arbitration at The Hague. On March 14 the Danish Folkething, or lower house, duly ratified the convention; but in the Landsthing, or upper house, some opposition has since developed to the cession of the islands, except with the approval of their white inhabitants. A treaty of extradition, also, was concluded with Denmark, January 6. — Early in April a treaty with Great Britain was signed that extended to the British colonies the existing convention for the protection of industrial property. — The United States supplemented its partial acceptance of the conventions agreed upon by the Peace Conference at The Hague (see RECORD for December, 1900, p. 753) when the Senate, March 14, ratified the convention regarding the laws and customs of war on land.

THE DEPENDENCIES. — Two important events have marked the **approaching autonomy of Cuba.** The first was the elections held in Cuba on December 31 for the choice of President and senatorial electors, members of the House of Representatives and provincial officers. The returns showed the election of General Tomás Estrada Palma as President, and Dr. Luís Estevos as Vice-President of the republic. On May 5 the newly elected Senate and House of Representatives met to pass upon the credentials of their respective members. The other event in question was the issue of an executive order at Washington, March 25, providing for the evacuation of Cuba and the transfer of its government from American to Cuban control on May 20. A few companies of coast artillery, however, were to be left to garrison the fortifications of the island until the Cuban government should replace them with its own troops. Acts of some note on the part of the existing military administration were the orders of February 8, creating a commission to regulate the construction and management of railroads, and of April 16, safeguarding judicial officers against arbitrary removal or suspension. At the request of the police courts and *audiencias* throughout the island, the jury system was abolished, April 5, on account of the difficulty it had caused in obtaining convictions. — The chief **work of the military forces in the Philippines** has been the suppression of the insurrectionary movements in the island of Samar and in the province of Batangas in Luzon. By severe and vigorous measures Lukban and Malvar, the sole remaining Filipino chiefs of any prominence, were made prisoners, and the rebellious agitation was checked. A rising of Moro chiefs on the island of Mindanao early in May was also suppressed after a sharp fight. Incidentally to these campaigns, charges of barbarous cruelty toward the natives were made against officers of the army, and on investigation it

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became known that the orders of Brigadier-General Jacob H. Smith, the chief in command in Samar, had authorized the troops to kill all natives over ten years of age and capable of bearing arms, and to ravage the island without limit. These orders evoked much indignation in the United States, and on April 25 a court martial to try General Smith convened at Manila. — Under the head of civil government, the annual **report of the Philippines Commission** had a number of important recommendations. It suggested the erection of an insular government in 1904, to consist of a governor, an appointive legislative council and an elective assembly. These bodies by joint vote should elect two delegates to Congress. In order to promote the industrial development of the islands, the Commission proposed the adoption of a differential tariff in favor of exports from the Philippines to the United States, the purchase by the state of the lands belonging to the religious orders, the grant of franchises to public and private corporations and the enactment of laws concerning coinage, banking, public lands and timber and mining rights. The recommendations were supplemented by a memorial to Congress from the Federal party in the islands, praying that the Philippines should be made an integral part of the United States, and that they should be erected into a territory with the privilege of eventual statehood. — The chief feature in **the legislation of Porto Rico** has been the enactment of a comprehensive code of law for the island. — In the relations of the United States with the dependencies, the most noteworthy element has been **the struggle in Congress over tariff concessions to Cuba and the Philippines.** The parts of President Roosevelt's message to Congress that dealt with the dependencies upheld the enforcement of the "sternest measures" in suppressing the insurrection in the Philippines, which "has become an affair of local banditti and marauders." Nevertheless the President pleaded the necessity of patience and resolution in fitting the inhabitants for the duties of self-government. The specific recommendations in the message resembled those offered by the Philippines Commission (see above). They called for a liberal treatment of the dependencies in general as a means of assuring industrial development, and incidentally advocated the immediate construction of a cable to Hawaii and the Philippines. As to Cuba the President urged that there were "weighty reasons of morality and of national interest" to prove the "vital need of providing for a substantial reduction in the tariff duties on Cuban imports into the United States." The real issue of the controversy in Congress arose in connection with **the proposed reduction of duties on Cuban sugar.** For more than two months a stubborn contest, waged in repeated caucuses of the Republican members of the House, threatened to disrupt the party majority. To the plea that the United States was morally obligated to grant tariff concessions to Cuba the representatives of the beet-sugar interest — and to a less extent those of the cane-sugar growers — offered a variety of objections and proposals. They denied that there was any moral question in the matter, or that Cuba

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really needed any relief. They asserted that such concessions violated the essential principle of protection, crippled the beet-sugar industry for the benefit of German competitors and the "Sugar Trust," and constituted a dangerous precedent for future action. If concessions must be made, however, they proposed either the direct payment to the Cuban government of a certain percentage of the revenues from imports from Cuba into the United States, in return for the reduction of Cuban import duties by the same percentage; or the negotiation of a special treaty of reciprocity with Cuba. At length, on March 18, a resolution opposed to the demands of the beet-sugar faction was adopted by the Republican caucus. Accordingly the bill reported by the Committee of Ways and Means provided that, whenever Cuba should have enacted immigration, exclusion and contract-labor laws as restrictive as those of the United States, the President should be authorized to negotiate with Cuba a treaty of reciprocity on the basis of a mutual reduction of twenty per cent in the tariff duties of the respective countries. The treaty, however, should be in force till December 1, 1903, only, — two months after the date fixed by the Brussels conference for the proposed abolition of bounties by the countries of Europe that produce beet sugar (see below, p. 357). In a final attempt to defeat this measure in Congress the "beet-sugar Republicans" obtained the aid of the Democrats in forcing through an amendment that abolished the differential duty on refined sugar during the existence of the reciprocity treaty. Then the House passed the bill, April 18, by a vote of 247 to 52, the minority consisting chiefly of dissatisfied Republicans. The Senate, thereupon, ordered its Committee on Relations with Cuba to ascertain whether the "Sugar Trust" controlled the production of sugar in the island. — The only other business in Congress that concerned the relations of the United States with Cuba was that contained in a special message from President Roosevelt, March 27. He recommended that provision be made for the diplomatic and consular representation of the United States in the new republic, and for the conclusion of a treaty to carry into effect the terms of the so-called "Platt amendment" to the army appropriation act of 1901 (see last RECORD, p. 742, and that for June, 1901, p. 373). An appropriation bill embodying the first of these recommendations was passed by the Senate, May 7. — Following the lines laid down in the President's message, a **temporary measure to provide revenue for the Philippines** was introduced in the House. It confirmed the tariff duties already fixed by the Philippines Commission, but provided that imports from the Philippines should pay the same duties in the United States as imports from foreign countries; that exports from the United States should be exempt from internal revenue taxes and subject only to the customs duties in the Philippines; and that the proceeds from all such duties should be expended in the islands alone. The bill passed the House, December 18, by a vote of 163 to 128, four Democrats voting in the affirmative and five Republicans in the negative. The Senate proceeded to amend it by reducing the tariff rates on importations from the

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Philippines by twenty-five per cent, and by deducting as well the amount of the export duty levied in the islands. It also added a rider modifying somewhat the strictness of the laws of treason in the Philippines. After some demur the House accepted these amendments, March 4, and the bill became law. — Owing to reports of cruel treatment inflicted by American soldiers upon the natives in the Philippines — especially the so-called "water-cure," a process used to extort information — the Senate authorized its committee on the islands to investigate the conditions existing there, and in particular the conduct of the war.

INTERNAL ADMINISTRATION. — **Changes in the cabinet** due to resignations have been as follows: the appointment of Henry C. Payne of Wisconsin, as Postmaster-General, to succeed Charles E. Smith of Pennsylvania; of Leslie M. Shaw of Iowa, as Secretary of the Treasury, to succeed Lyman J. Gage of Illinois; and of William H. Moody of Massachusetts, as Secretary of the Navy, to succeed John D. Long of the same state. — Several **extensions of the civil service rules** have been made. An order of the President, November 19, revoked so much of the modifications effected by President McKinley in May, 1899 (see RECORD for December, 1899, p. 744), as to restore various offices in the War Department to the classified service. Similarly, on November 27, the President authorized the application of the rules to Indian agencies. On December 14, he ordered public officials, whenever called upon, to furnish the Civil Service Commission with all needful information. At the same time he directed that appointments should be more closely confined to the lists of eligibles; that compensation should be withheld from persons illegally vested with office, pending their dismissals; and that the evasion of competitive examinations should be checked by a thorough restriction of the system of transfers from one branch of the public service to another. — The **opinion of the naval court of inquiry** on the conduct of Rear Admiral Schley during the Santiago campaign (see last RECORD, p. 743) was rendered December 13. The court declared that officer guilty of negligence and disobedience of orders, but recommended that no further proceedings be taken in the matter. On an appeal to the President by Admiral Schley the judgment was sustained.

CONGRESS. — The first session of the Fifty-seventh Congress began December 2. The Senate reëlected Senator Frye of Maine as its presiding officer, and in the House David B. Henderson of Iowa was reëlected Speaker. A sensational incident on the floor of the Senate was furnished on February 22 by a personal encounter between Messrs. Tillman and McLaurin, the senators from South Carolina, over a provocative assertion of the latter. The Senate promptly suspended both members for contempt, but a few days later reinstated them with a resolution of censure. — The **President's message** devoted considerable space to a denunciation of anarchism, and called for legislation to cope with the evil and to place attacks upon the President and upon officers in line of succession to the

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presidency under the jurisdiction of the federal courts. It upheld publicity "as the only sure remedy" for "trusts," and hence recommended the supervision of all industrial combinations engaged in interstate commerce. It advocated, also, the creation of an executive department of commerce and industries, the tightening of restrictions upon immigration, especially by the reënactment of the Chinese exclusion law, and the facilitation of efforts to remove the abuses of the convict-labor system. The President deprecated any modification of the tariff laws, except by way of reciprocity, and suggested the reduction of the war taxes so as to "bring the revenues more nearly within the limit of actual needs." He called for an amendment of the Interstate Commerce Act to prevent discrimination in rates to shippers, and for legislation to improve the merchant marine. A thorough reform of the consular service, he said, should be undertaken, the navy should be strengthened by the formation of a naval reserve, and the army rendered more efficient by the creation of a general staff and the betterment of the militia service. He urged, also, a greater protection of the forest reserves, and the construction by the federal government of a system of canals and reservoirs for the irrigation of arid lands. Finally, he recommended that the census office be made a permanent bureau, and that the Indians be recognized more fully as individuals by breaking up the tribal funds. — Despite this abundance of recommendation Congress has enacted few important measures into law. Aside from the tariff legislation for the Philippines (see above, p. 349) and the routine appropriation bills, only three of them deserve mention. One erected the census office into a permanent bureau (signed March 7); another (signed April 14) reduced the surplus revenue by approximately $77,000,000, through a **repeal of the remaining war taxes** of 1898 (*cf.* RECORD for June, 1901, p. 375). The third called forth vigorous discussion before it became law. As introduced by members of Congress from the states along the Pacific coast it provided for **the rigorous exclusion of Chinese immigrants.** To this end it reënacted the existing laws on the subject and, in addition, forbade the entrance into the United States of Chinese inhabitants of the dependencies, and the employment of Chinese on American vessels. In this form it passed the House, April 7. The majority of the Senate, however, opposed the measure as a violation of treaty rights, as likely to bring on retaliation by China and as hurtful to American shipping interests in the Pacific. Hence that body approved a substitute bill which merely continued the exclusion laws now in force till the expiration of the present treaty with China, extended their application to the dependencies and enlarged the number of persons exempted from the prohibition. This was eventually accepted by the House, and the President signed the bill April 29. — A matter that has occupied much attention in Congress has been the **Isthmian Canal question.** After a perfunctory debate, the House by a vote of 307 to 2, on January 9, passed again the Nicaragua Canal Bill of 1901 (see RECORD for June, 1901, p. 364), with the single modification that the amount

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to be expended was increased. But the offer of the Panama Canal Company to dispose of its concession to the United States (see above, p. 346), and the doubt raised as to its ability to convey a clear title, have prevented thus far any action of the Senate on the measure. — Other proposals for legislation have passed the Senate as follows: a resolution for an amendment to the Constitution, providing for the determination of the succession to the presidency (January 30); and bills to create an executive department of commerce and labor in which the census bureau should be included (January 8), to reclaim arid lands by irrigation (March 1), to promote the merchant marine by the payment of subsidies to vessels classified as to tonnage and speed and employing a certain proportion of Americans in their crews (March 17), and to protect the President, the officers in line of succession to the presidency, and foreign rulers, against anarchistic attacks. The House also approved measures as follows: on March 10, establishing the rural free delivery service as a permanent feature of the postal system, classifying it and placing the carriers on a salaried basis; on May 2, defining conspiracy, and regulating the use of injunctions in labor disputes; and on May 9, granting statehood to the territories of Oklahoma, Arizona and New Mexico, with an amendment prohibiting the exercise of polygamy. Among the bills that have reached the stage of favorable report in the House may be mentioned those maintaining the gold standard providing for a more elastic currency and increasing the supply of subsidiary coin, and rendering the immigration laws more stringent in their exclusion of anarchists and other undesirable persons.

THE FEDERAL JUDICIARY. — The most important decision of the Supreme Court was that of December 2 (Pepke *vs.* the United States, commonly known as "the fourteen diamond rings case") which declared **the status of the Philippines** to be the same as that of Porto Rico. By the same majority as that in the case of De Lima *vs.* Bidwell, and for substantially the same reasons (see last RECORD, p. 744), the court held that the Philippine Islands were domestic territory, and hence that duties levied upon commodities imported into the United States from that dependency under the existing tariff act were illegal. The court also affirmed its previous decision in a second suit of Dooley *vs.* the United States (see as above). — In the case of the Louisville and Nashville Railroad Company *vs.* Kentucky, January 6, the court held that the constitutional and statutory provision of a state prohibiting a railroad company from charging more for a shorter than for a longer haul, except by permission of a railroad commission, does not interfere with interstate commerce, deny the equal protection of the laws or infringe the guaranty of due process of law. In Clark *vs.* Titusville, March 3, it was held that the equal protection of the laws was not denied by a city ordinance imposing a license tax on merchants and dividing them for the purpose into classes according to the amount of their sales. In the case of the Gulf and Ship Island Railroad Company *vs.* Hewes, November 18, the court declared that the act of a state

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legislature in exempting a railroad company from taxation for a given period and then, under a clause of the state constitution which authorizes the taxation of corporations, revoking or altering the exemption, does not impair the obligation of contracts. On the other hand, it was held (City of Detroit *vs.* Detroit Citizens Street Railway Company, March 3) that when a city has allowed a street railway company to charge a certain rate of fare, and the company has, by adopting the rate, acquired a contract right to charge it, any attempt to reduce the same without the consent of the company is unconstitutional. Also, April 7, in the case of Stockard *vs.* Tax Officials, the court declared unconstitutional, as an interference with interstate commerce, a law of Tennessee which imposes a tax on local agents of foreign merchants.

STATE LEGISLATION. — The returns of the election held on November 11 showed the **adoption of the new constitution in Alabama** by a majority of 26,000, and hence the practical disfranchisement of many negroes in that state (see last RECORD, pp. 744, 745). — The chief issue in the discussions of **the Virginia constitutional convention** over the means of eliminating the negro vote was the advisability of incorporating a so-called "understanding clause" in the proposed constitution. By this clause a citizen, in order to be qualified as a voter, must be able to read or give a reasonable interpretation of any section of that document. The compromise eventually accepted, April 4, provided for the application of the "understanding clause" till 1904, after which time the qualifications for voting should be the payment of a poll tax and the ability to write one's name and address legibly. — The question as to the maintenance of "town rule" in the legislature has been the dominant topic in the sessions of **the Connecticut constitutional convention**, which began on January 2 (*cf.* last RECORD, p. 745). It took the form of a contest over the so-called "one-sixty" clause proposed to be added to the revised constitution. This would reduce the membership in the lower house of the legislature from 252 to 168, on the basis of one representative from each town, and, in accordance with the constitutional amendment recently ratified, would make the Senate a more representative body, by increasing its membership from 24 to 60. — In New York a constitutional amendment was ratified, forbidding the legislature to pass local or special acts that would exempt property from taxation. At a special session, the legislature of Minnesota adopted a number of resolutions for constitutional amendments as follows: authorizing the legislature to impose a general income tax instead of taxes on personal property; providing methods for the taxation of public corporations; and replacing the inheritance tax by one on transfers of the estates of decedents. — **Acts against anarchism**, prescribing severe penalties for the practice of its principles, were passed in New York, New Jersey and Georgia. — The legislature of Mississippi approved a bill that will render party conventions practically useless by requiring that nominations for office shall be made in the primaries only, and by subjecting all primary elections to the control

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of the state. That of New York concentrated the management of state hospitals for the insane in the state commission of lunacy, and provided for the appointment of a fiscal supervisor of charities. It also lengthened the period within which divorces may become effective, widened the scope of the liability of employers for accidents to their workmen, and authorized the indeterminate sentence for first offenses other than those of murder and arson. The legislature of Rhode Island tightened the restrictions about divorce by doubling the period prescribed for residence in the state before applications for the purpose may be made. Measures relating to **corporations** became law in New York, forbidding domestic corporations to assume the name of foreign bodies licensed to do business in the state, and in New Jersey, providing that stockholders dissatisfied with the merger of corporations may have a value fixed on their stock for which the new corporation will be liable. In Ohio the legislature passed acts compelling corporations to file annual statements of their business, taxing private corporations on their issued capital stock and doubling the tax already imposed upon public-service corporations.

THE TRUST QUESTION. — Much public interest has arisen in the **merger of the Northern Pacific and the Great Northern railroad systems** under the control of a proprietary corporation known as the Northern Securities Company. Objection was brought against this consolidation of parallel and competing lines on the ground that it violated the laws of several states through which the roads run. At the suggestion, therefore, of the governor of Minnesota a conference of the governors and attorneys-general of the states concerned was held at Helena, Montana, December 30, and here it was decided that Minnesota should bring a bill of complaint in the United States Supreme Court for an injunction against the merger. But when Minnesota requested permission to offer the bill, the Supreme Court denied it, February 24, for the reason that the court had no jurisdiction over contests between the complaining state and the corporations involved in the merger, which were its own creatures. When the state of Washington, however, applied for a similar privilege, the Supreme Court granted it, April 21, because the objection arising in the case of Minnesota had no force here. On behalf of the federal government, also, the Attorney-General of the United States filed a bill in the circuit court for the district of Minnesota, March 10, for a permanent injunction against the merger on the ground that it violated the "anti-trust" statute of 1890. The Attorney-General also filed a bill for a similar purpose in the United States Circuit Court at Chicago, May 10, against the so-called "Beef Trust." The defendants were charged with a violation of the "anti-trust" act, in that they were maintaining a monopoly in restraint of trade, and practicing illegal discrimination against other persons engaged in the same business. — Among **judicial decisions invalidating "anti-trust" legislation** may be mentioned that of the Supreme Court of Louisiana, December 2, on a special license tax on a sugar-refining company, and that of the Supreme Court of

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the United States, March 10, on a law of Illinois which exempts livestock and agricultural products from its application. This the Court declared to be contrary to the provision of the federal constitution guaranteeing the equal protection of the laws.

MUNICIPAL AFFAIRS. — Under **the reform administration in New York City** strenuous efforts have been made to break up the practice of blackmail, popularly known as "the system," that has been more or less prevalent among police captains and precinct detectives in their dealings with saloon keepers who violate the excise law. The city officials also have tried to facilitate reform by ousting from office a number of Tammany employees. To this end an act of the legislature was obtained, authorizing the Board of Estimate and Apportionment to fix salaries in the municipal service. — The result of **the municipal elections in Chicago**, held on April 1, showed a victory of the "Gray Wolves," or politician element, in their own districts over "The Municipal Voters League," a body of reformers, although the latter were successful in the city at large. At the same time proposals were popularly ratified for the municipal ownership of street-car systems, lighting plants and other public utilities, as well as for the abolition of the so-called "town governments" within the city limits. — An act of importance to the cities of New Jersey was passed by the legislature of that state, giving to common councils practically complete power over expenditures of money for municipal objects.

LABOR AND CAPITAL. — An event of great importance has been the formation of a **voluntary board of industrial arbitrators**. A conference of representative employers and workingmen held in New York City, December 17, under the auspices of the National Civic Federation, to discuss means of harmonizing the relations of labor and capital, resolved to appoint a board of thirty-six men for the purpose. Of these, twelve represented organized labor, twelve, the large industrial concerns, and twelve, the public at large. Senator Marcus A. Hanna of Ohio was chosen chairman, and Samuel Gompers, president of the American Federation of Labor, vice-chairman. The duties of this board were declared to be the amicable adjustment of disputes between employers and employees, and, if requested by both parties, the exercise of specific powers of arbitration. By the attainment of a compromise postponing the matter for a year, it has already succeeded in averting a strike of garment-makers in New York City for an eight-hour work day.— Elsewhere a number of sporadic strikes have occurred in the mining regions of southern Indiana, western Kentucky and western Missouri, all attended with more or less violence, and, in the case of the last two states, requiring the presence of the militia. Another strike that threatened for a while to paralyze the facilities of transportation in Boston was brought on in March by freight-handlers, who refused to touch merchandise carted by non-union teamsters. Sympathetic strikes swelled the number of discontented workmen to twenty thousand, but the efforts of the governor and the state board of arbitration caused the men to return to

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work, and in the end the strike availed nothing. — Two **judicial decisions favorable to labor interests** may be noted. On March 19 the supreme court of Missouri held that courts of equity have no power to enjoin labor organizations from enforcing boycotts on corporations, and on April 1 the Court of Appeals of New York affirmed the right of labor unions to limit their membership and to refuse to work with non-union men. — In the **final report of the Industrial Commission** (*cf.* RECORD for June, 1900, p. 367), submitted February 10, a number of recommendations on the relations of labor and capital are noteworthy. The Commission recommended that Congress should enact a code of laws to regulate the conditions of employment on railroads; should apply the principle of limited compulsory arbitration to interstate carriers; and should remove the abuses connected with the private employment of armed men to defend property and workmen during labor troubles. Greater caution at such times was advised in the use of injunctions. The commission urged uniformity in state legislation on the subject of regulating the hours of labor for young persons, and of paying for labor directly in cash, and suggested the establishment in all the states of labor bureaus empowered to recommend federal and state legislation on matters of importance to labor.

LYNCH LAW. — In contrast to the number of outbreaks under this head mentioned in the last RECORD (p. 747) only twenty-seven examples have been furnished since November. Of these, twenty-three were found in the Southern states, Louisiana heading the list with nine. Murder and murderous assault were the chief crimes alleged in justification of such acts. In three cases, at least, the innocence of the victim was certain. Unusual cruelty appeared only in Georgia, where a mob burned a negro at the stake for murder, and in South Carolina, where "white-caps" shot a white woman to death because they disliked her immoral mode of life. In two of the Southern states, however, namely Mississippi and South Carolina, orderly jury trials and convictions were secured of two negroes who had committed rape upon white women. — On April 17 the circuit court at New Orleans declared illegal the practice in the turpentine districts of Florida and elsewhere in the United States of keeping negro laborers in a state of peonage, or semi-slavery, until they had worked out their debts to their employers.

II. FOREIGN NATIONS.

EUROPEAN INTERNATIONAL RELATIONS. — An event of some importance was **the sugar conference** at Brussels, which opened December 16. The powers invited to send delegates were Great Britain, France, Germany, Austria-Hungary, Italy, Spain, Sweden, Holland, Belgium and Roumania. The disinclination of Germany and Austria-Hungary to lower their import duties on sugar to the amount desired by the majority of the participants in the conference prolonged the discussions till March 5.

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The compromise then reached, when embodied in a convention, provided for the abolition of all bounties on sugar after September, 1903 (*cf.* RECORD for December, 1898, p. 763), the reduction of import duties to a uniform rate of six francs, and the levy of countervailing duties on sugar from such states as should continue to grant bounties. This convention was ratified by Belgium early in May. — On March 19 France, Germany, Austria-Hungary, Spain, Portugal, Switzerland and Greece approved a treaty for the protection of bird life in the countries concerned. — In March occurred a suspension of diplomatic relations between Switzerland and Italy. The cause was the refusal of the Swiss government to proceed against the editor of an anarchistic paper for an insult to the memory of the late King Humbert. The Swiss government stood upon the ground that the demand for action was a mere personal act of the Italian ambassador, without a formal complaint lodged on behalf of his government. — For the proffered mediation of Holland between Great Britain and the Boers, see **Africa**, and for the Anglo-Japanese treaty, see **The Orient**.

GREAT BRITAIN AND IRELAND. — The brief program of legislation announced in **the speech from the throne** at the assembling of Parliament, January 16, bore a close resemblance to that of last year (see RECORD for June, 1901, p. 381). It embraced proposals for the improvement of education, for dealing with the water supply in London, for facilitating the disposal of land in Ireland and for regulating the sale of intoxicating liquors. — One of the earliest subjects of discussion was the **proposed revision of the rules of procedure in the House of Commons**. The general design of the changes was to facilitate legislative work. In connection with the maintenance of order, the new rules attached more serious consequences than heretofore to the suspension of a member, and required an apology before the offender might resume his seat. In case of disorder the speaker was authorized to adjourn the House at his own discretion. The proposed rules also altered the hours of meeting, permitted the introduction of bills without the formal consent of the House, and limited the period for questioning members of the government as well as the power to debate, or challenge divisions, on matters of routine. Against the government's proposition it was urged that the contemplated arrangements tended to suppress debate, unduly curtailed the privileges of private members in the presentation of bills and encouraged resort to obstruction. From the constitutional standpoint objection was raised that an enforcement of the new penalties to the degree of excluding a member from an entire session of Parliament would inflict undue punishment upon a constituency, and violate its right to choose its own representatives. However, the ministry procured a sanction of most of the rules before the termination of this RECORD. — Another ministerial measure of importance was the **new scheme for improvement in the army** offered by the Secretary of State for War as a supplement to that of last year (see RECORD for June, 1901, p. 381). It comprised the formation of a reserve of militia, yeomanry and

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volunteers, the relief of officers from certain financial burdens and a betterment of the medical service. The most notable feature was a very substantial increase of pay for both new recruits and veterans, in order to stimulate enlistment and long service in the rank and file. Referring to the support of the colonial contingents in South Africa, the secretary emphasized the advantages of some arrangement that would make the entire force of the Empire available in case of a war involving imperial interests as a whole, and that would "more closely link together the different parts of the British Empire." Shortly after the presentation of this plan the Opposition in the House of Commons endeavored to secure the appointment of a commission to investigate the expenditures of the war office. This attempt met with defeat by a vote of 346 to 191. An earlier effort of similar tenor in the House of Lords had met a like fate. The government then brought forward an **education bill** of a fairly comprehensive sort to take the place of the tentative measure now in force (see last RECORD, p. 748). The new bill aimed to vest in the county and borough councils practically full control of primary and secondary education. It awakened so much controversy, however, that it made little progress toward passage. The same was true of the bill to establish municipal ownership of the London water supply, and of the bill for the government purchase of land in Ireland. The chief objection of the Irish Nationalists to the latter scheme lay in its failure to make the sale to the government compulsory. Other measures of a less controversial character that have made some headway in Parliament are those to lessen habitual drunkenness by a stricter regulation of licenses; to grant old-age pensions to the deserving poor; and to protect copyrights on musical works. — **The budget** presented by the Chancellor of the Exchequer, April 14, estimated the expenditure for the ensuing year at £174,609,000, which would involve a deficit of about £45,500,000. The most striking measure proposed to meet this deficit was the **imposition of duties on cereals.** Other expedients for the purpose were an increase in the income tax, a suspension of the sinking fund and a doubling of the stamp tax on checks and dividend warrants. In addition, £32,000,000 was to be borrowed and the remainder of the deficit made up by drafts on unexpended exchequer balances. — A series of **disturbances in Ireland** proceeding from the agitation of the United Irish League took the form of intimidation, boycotting, non-payment of rent and general incitement to lawlessness. At length, in April, the government authorized **coercive measures** in certain districts. These included a resort to summary jurisdiction, special juries, change of *venue* at the option of the crown and the suppression of branches of the League as dangerous associations.

THE BRITISH COLONIES. — The Parliament of the Dominion of **Canada,** which assembled February 13, has devoted much of its session to a consideration of bills for the grant of subsidies to the merchant marine, and for the construction of a canal to connect the waters of Lakes Erie and Huron. In Manitoba, where the plebiscite in 1898 on the question of

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prohibiting the liquor traffic resulted in favor of prohibition (see RECORD for December, 1898, p. 764), a special act for this purpose was defeated in April, on a popular vote, by a large majority. — Of the several legislative measures pending in **the Parliament of Australia** (see last RECORD, p. 749) the only one that secured approval in either house was that passed by the Senate in December, dealing with the restriction of alien immigration. The House of Representatives, however, has spent considerable time in discussion of the proposed tariff, adjusting the differences between the protectionists and a combination of the labor members with the free traders. — Among the separate states of the commonwealth the most important act of legislation was that which established **a court of compulsory arbitration in New South Wales**. As passed December 6, the act vests this court with full power to deal with industrial disputes without appeal, and makes strikes and lockouts misdemeanors punishable at law. The court may even fix the scale of wages and, under certain circumstances, compel employers to hire union, in preference to non-union, labor. An important factor in the authority to enforce its decisions is the right to declare any practice or condition of employment a "common rule" for all persons engaged in the industry under consideration. The legislature of New South Wales also sanctioned an act extending the scope of occupation licenses and the tenure of leaseholds on certain lands, fixing the rents to be paid, and assigning the ownership of improvements thereon to the crown at the end of a given period.

FRANCE. — Foremost among recent legislative measures was the act providing for the payment of **subsidies to the merchant marine**. It gives to vessels built in France subsidies proportionate to their tonnage, and similar amounts to vessels built elsewhere on condition that the majority of the directors in the companies owning them are Frenchmen. A special feature of the law is the so-called "outfit bounty," to improve the class of steamships used in time of war. Another project to stimulate commerce, adopted by the Chamber of Deputies, January 28, appropriated upwards of 600,000,000 francs for the construction of new canals and the betterment of harbors and existing waterways. In some cases, however, the localities affected are to share the cost with the government. The discussion on various items in the financial arrangements of the year evoked from the budget committee a proposal to abolish the ministry of public worship. At the demand of the government the Chamber rejected it by a vote of 350 to 187. — Several **measures concerning labor** are to be noted. As approved by the Chamber of Deputies, they fix the number of hours for daily employment on railroads at ten, reduce those in mines gradually to eight and limit the number of consecutive days in the week on which work may be demanded. The Chamber also voted for a grant of amnesty to all persons, except anarchists, imprisoned for strike offenses. — Outside of Paris **the general elections** for the Chamber of Deputies, held April 27, resulted in a triumph for the Waldeck-Rousseau cabinet. The indications

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before the taking of the second ballot were that the nominal majority of the cabinet in the Chamber of Deputies would be increased by about thirty.

GERMANY. — The chief incident of public interest has been the **contest over the tariff bill** between the Agrarians and the government in the tariff committee of the Reichstag. During the course of his speech introducing the measure, December 2, the imperial chancellor declared that the new tariff (*cf.* last RECORD, p. 751) gave more protection to agriculture, remedied the defects of the existing arrangements as applied to industrial conditions and afforded a better means of safeguarding German welfare in the negotiation of commercial treaties. In reply the Agrarians demanded an increase in the duties and the establishment of a minimum rate on agricultural products, threatening that otherwise the Conservatives as a body would defeat both the bill and all commercial agreements founded on the tariff now in force. They insisted also that imports should have certificates of origin, and, in the absence of treaty limitations, should pay the same rate of duty as that levied on German products of a similar kind in the ports of foreign states. Despite the opposition of the government, supported chiefly by the Radicals and Social Democrats, amendments embracing these stipulations were all adopted before the project was again submitted to the Reichstag. — That body approved bills providing for a comprehensive regulation of the conditions of seafaring life, confining the jurisdiction over offenses of the press to courts in the localities where they occurred, and amending the election law so as better to insure secrecy in voting. Aside from the routine work on the budget, the only other measures of importance that claimed the attention of the Reichstag were the Centrist bill for liberty of worship throughout the Empire (see RECORD for June, 1901, p. 384), and a bill to restrict the employment of children. — The speech from the throne at the opening of the **Prussian Landtag**, January 8, referred to the financial straits of the country, owing for the most part to the decrease in receipts from the state railroads, and proposed various matters for legislation. These included the improvement of housing facilities for state workmen and officials with small salaries, the extension of the railway system and a new canal bill (*cf.* RECORD for June, 1901, p. 384). The speech also emphasized the need for salutary measures to check the agitation in the Polish districts of eastern Prussia, and expressed the determination of the government to maintain German national supremacy. The agitation referred to was that connected with the "Wreschen school scandals." The chastisement of some children in a public school who refused to pay any attention to religious instruction in the German language occasioned the interference of their parents, some of whom were imprisoned for "opprobrious and seditious" conduct. In April the Prussian government forbade the immigration of Poles unless they were provided with fully attested passports and a suitable sum of ready money. Physically unsound persons and young children were absolutely

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excluded. — A notable abandonment of particularism was that of Wurtemberg in February, when it agreed to discontinue the issue of separate postage stamps.

AUSTRIA-HUNGARY. — The tension over the language trouble has reappeared in the Reichsrath (*cf.* last RECORD, p. 751). Early in the session the prime minister, Dr. von Koerber, hinted at the possibility of suspending the constitution, unless the revival of dilatory and disorderly practices should stop. The Reichsrath did allow measures like the provisional budget, the raising of recruits, the authorization of certain agricultural bodies and amendments to the industrial laws to go through, but the defeat of a resolution offered by the Pan-Germans against the extension of Czech educational facilities in Styria brought on a disgraceful tumult, April 9, that forced the president to suspend the session. — More than a dozen persons were killed and nearly a hundred injured in February during the course of a conflict between the military and mobs of strikers and anarchists in Trieste. — In the discussions of the delegations at Pesth over the renewal of the economic arrangements between Austria and Hungary something of a deadlock has ensued over the refusal of the former to accept certain duties on agricultural products, and of the latter to allow an increase of duties on industrial goods.

RUSSIA. — Public life in this country during the past six months has been pervaded with **revolutionary unrest and disturbance** of a more radical character than the agitation heretofore described (see RECORDS for June, 1901, p. 385, and December, 1901, p. 752). Not only students and workmen, but the peasantry as well have been involved. After a series of encounters between students and workingmen on the one side and the police and military on the other, resulting in the death or injury of a large number of persons, the government closed several of the universities, notably those of Kieff, Kharkoff and St. Petersburg, and placed under the partial control of military authorities about twenty cities and towns, most of which are the seats of higher educational institutions. The students themselves and their coadjutors were arrested by wholesale and imprisoned, or banished to Siberia and other remote localities. On April 15, a reputed student assassinated M. Sipiaguine, the Minister of the Interior, who, according to common report, had upheld a policy of severe coercion in dealing with the outbreaks. M. de Plehve, the secretary of state for Finland, became his successor. About the same time General Vannovsky, the minister of public instruction (*cf.* RECORD for June, 1901, p. 386), resigned his office on account of his failure to gain approval for his plans of modernizing the educational system, particularly in secondary schools. His successor was M. Sänger, the assistant minister of education. The revolutionary agitation, added to hunger and destitution, incited a series of **peasant outbreaks**, mainly in southern Russia, during the course of which numerous estates were pillaged and destroyed. — The extensive schemes of M. de Witte, the Minister of Finance, for the **encouragement**

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of shipping interests deserve mention. For example, the Russian volunteer fleet is to enjoy subsidies, exemptions from taxation and other privileges, on condition that it maintains a regular traffic between Russia and the Far East, satisfies a number of specified requirements and submits to government supervision. The government further agrees to advance liberal sums for construction; insurance and maintenance, provided that the beneficiaries are exclusively Russians, and that a number of stipulations are observed dealing with the specifications of vessels, the use of Russian fuel and the amount of Russian products carried. — The enforcement of measures designed to effect the **extinction of Finnish autonomy** has proceeded with much vigor. Orders published in December abolished all distinctions between the Finnish and the Russian military bodies, directed the prosecution of clergymen who refused to read decrees from their pulpits, and substituted Russians in the public service for Finlanders who ventured to oppose the policy of the government. This significant admission of Russians to all the public offices in the grand duchy was followed by the abolition of the special telegraph bureau and the practical disbandment of the Finnish police. On the other hand, the resignation of the entire medical board in Finland to avoid the physical examination of recruits and the absolute refusal of the great majority of communes to elect boards of conscription betokened **resistance to the new military regulations** (see last RECORD, p. 752). Indeed, on April 17 and 18, the summons of recruits for the Helsingfors district revealed an attendance of less than seven per cent of the levy, and in the course of the enrollment a popular tumult ensued, only to be quelled by Cossacks. Still, the opposition was so successful that an imperial rescript, issued April 22, announced a postponement of the time for the recruits to present themselves, but added, warningly, that any further evasion of military duty would "lead to the conviction that the present form of government in Finland was no longer suitable." — In order to cope with the difficulties arising from the presence of 40,000 Armenian refugees in the Caucasus region, orders were issued in November providing for the naturalization of these people as Russian subjects.

ITALY. — In the adjourned session of the Parliament, which opened November 27, the Zanardelli ministry eventually secured the **adoption of measures for financial reform** similar to those described in the RECORD for June, 1901, p. 386, but exclusive of the proposed reduction in the salt tax (see below). They included a decrease in the registration duties upon small transfers of property and an increase of taxes on negotiable paper and foreign corporations. The success of the cabinet in this respect is attributable in some degree to the report of the Minister of Finance, showing a remarkable surplus in the treasury, and to an attractive project, which was approved, for the establishment of a public labor bureau. To break up the practice under which adverse votes on measures of the government were permitted to affect only the minister from whose department they

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emanated, the cabinet, in November, adopted rules of procedure whereby it will henceforth assume collective responsibility for all projects brought forward by any minister. — In **the speech from the throne** at the opening of the Parliament, February 20, the king announced the introduction of measures reducing the price of salt, relieving the working classes of certain burdens, especially in connection with the forms of contract, and further protecting Italian monuments of antiquity. In particular a bill was promised that should deal with divorce and the rights of illegitimate children "in harmony with the common law of other nations." As to the relations between state and church, the pronouncement of the address was as follows: "My government intends to maintain strictly the separation between the civil order and the spiritual order; to honor the clergy, but to keep them within their own sphere; and to pay the most profound respect to religion and liberty of conscience, but, at the same time, to preserve absolutely intact the prerogatives of civil power and the rights of national sovereignty." An effort to procure the reëlection of Signor Villa to the presidency of the Chamber of Deputies resulted in a **temporary defeat of the ministry**. The cabinet resigned, but at the request of the king resumed office. Its **frustration of a great railroad strike** that threatened to assume revolutionary proportions was a noteworthy achievement. On February 24 it issued a decree ordering the mobilization of the reservists employed in the railway service. At the same time the ministry endeavored to compose the dispute between the railroad companies and their employees, which was of long standing and concerned the rate of wages, the methods of promotion and other matters. As a provisional concession to the demands of the men, the government agreed to make a **contribution from the public treasury** of more than $6,000,000, while the railroad companies should supply the small remainder of the amount disputed. The cabinet then obtained the election of a new candidate for president of the Chamber, March 10, and five days later the decree for mobilizing the reservists was revoked. — An altercation in the Senate over this decree between General Pelloux, the former prime minister, and Signor Giolitti, the Minister of the Interior, occasioned the retirement from the cabinet, late in April, of General Ponza di San Martino, the Minister of War.

Spain. — In several of the localities mentioned in the RECORD for December, 1901, p. 753, there has been a **recurrence of strike riots** more or less instigated by anarchists. The metal workers of Barcelona, especially, unable to obtain suitable concessions to their demands for fewer hours, for ease of communication with their employers and for a variety of other privileges, started a strike in January that, when joined by other workmen out of sympathy, involved 80,000 men. The displays of violence caused a stoppage of practically all business and transportation in the city until martial law had been proclaimed, and, by the end of February, the police and military had quelled the disorder. On March 17 the government promulgated a decree fixing an eight-hour day for persons employed

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on public works. — **Financial reform** was the chief matter of legislative activity. In order to improve the rate of exchange for gold, and particularly to lessen the premium on that metal, in February the Cortes passed a bill providing for the payment of customs duties on a number of commodities in gold. The discord prevalent in the cabinet over the fitness of this measure to accomplish the object sought, over the wisdom of an issue of paper money and over the determination of the relations of the government with the Bank of Spain led to the **resignation of the cabinet**, March 12. The queen regent sought to have a coalition ministry formed that would not interfere with the religious orders, but, failing in this, intrusted the reconstruction of the cabinet to Señor Sagasta. The new ministry included four members of the former body, besides the premier. Among the features of its program for legislation were the creation of a department of labor, the gradual abolition of octroi duties, the reorganization of the navy, a greater amount of self-government in the localities and a reform of the ecclesiastical system, by lessening the number of bishoprics, and by otherwise strengthening the state against encroachments from the church. The program also embraced a modified measure for adjusting relations between the national treasury and Bank of Spain, and the lower house of the Cortes gave its approval to the measure, April 29.

MINOR EUROPEAN STATES. — Under this head perhaps the most notable incident has been the **riotous agitation for equality of suffrage in Belgium**. The inflexible opposition of the clerical majority in the Chamber of Deputies to the proposal of the Socialists and Liberals for an abolition of plural voting, in April, caused socialistic outbreaks of a serious character in Brussels and elsewhere. As a means of forcing the issue, the Socialists tried to provoke a general strike of the working classes. Violent collisions with the police and military marked the course of events for several days, until many persons had been killed or wounded. These excesses, however, alienated the Liberals and public sentiment in general, so that, by the end of the month, normal conditions were restored. Among measures enacted into law may be mentioned those which granted a bounty to producers of beet sugar, suppressed the practice of gambling, and reorganized the army by reducing the term of service and increasing the effective strength through an extension of the volunteer system. — A popular demonstration for universal suffrage, similar to that in Belgium, but on a much smaller scale, occurred about the same time in **Sweden**. On May 3 the parliament of this country passed a measure establishing a progressive income tax, to meet the cost of the recent changes in the military service (see last RECORD, p. 754). — Considerable popular agitation, even to the extent of violence, has arisen in **Portugal** against recent conventions with the foreign holders of the national debt. — Late in November, there was a **popular outbreak in Greece against a proposed translation of the Scriptures** from ancient Greek into the present vernacular. Under the auspices of the Queen arrangements had been made to

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prepare an authorized version of the Bible in modern Greek for general use, but, in the popular estimation, this was regarded as a deliberate scheme of Panslavism to lessen the traditional authority of the Greek Scriptures and the orthodox church. During the course of disturbances at Athens, kindled chiefly by students of the university, seven persons lost their lives, fifty more were injured and the prime minister narrowly escaped assassination. As a result of the excitement a new cabinet had to be installed. — The Sobranje of **Bulgaria**, in November, adopted a measure that established the principle of the irremovability of judicial officers. Its refusal, however, to approve a plan of the coalition ministry (*cf.* RECORD for June, 1901, p. 387) to secure a loan from a foreign corporation, which was to exercise supervision over Bulgarian revenues, led in January to a reconstruction of the cabinet, and then to the dissolution of the Sobranje itself. The ensuing elections gave a substantial majority to the new ministry of Russophil complexion. — On the payment of the ransom demanded, in February, the Turkish brigands released Miss Stone, the American missionary, from captivity (*cf.* last RECORD, p. 755). — **Friction between Turkey and Austria-Hungary** was removed by an agreement reached November 12, soon after the compliance of the sultan with the demands of France (see last RECORD, p. 755). The Porte conceded the payment of indemnities, the infliction of punishment, and the restitution of property, in cases of injuries to Austrian subjects, the right to erect Catholic churches and schoolhouses, the grant of railway and manufacturing concessions and the submission of other matters in dispute to a court of arbitration. On January 17, also, the Turkish government issued an irade approving the final convention for completing the (German) Anatolian railway system between the Bosphorus and the Persian Gulf (*cf.* RECORD for June, 1900, p. 376). The terms included the advancement of fixed sums for the construction and maintenance of the railroad, the building of harbors and the establishment of steam service on certain rivers.

THE ORIENT. — The most significant event in the Far East has been the formation of an **alliance between Great Britain and Japan**. The preamble of the treaty, signed January 30, states that the contracting parties were "specially interested in maintaining the independence and territorial integrity" of China and Corea, and "in securing equal opportunities in those countries for the commerce and industry of all nations." The treaty itself provides for the armed coöperation of the parties concerned should either of them become involved in war with two or more powers. It is agreed, also, that neither ally shall conclude a separate agreement with any power to the prejudice of their respective interests. In reply to the announcement of policy embodied in this treaty, France and Russia issued a joint note, March 19. They asserted that they regarded the agreement as an "affirmation of the essential principles which they themselves ... have declared to constitute, and which remain, the basis of their policy." At the same time, in view of possible difficulties that might arise affecting

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"the integrity and free development of China," they would reserve "the right to consider eventually the means of insuring the defense of their interests." — As to **affairs in China** proper, it may be said that, after the opposition of the other powers had caused Russia to abandon its earlier **terms for an evacuation of Manchuria** (see RECORD for June, 1901, p. 390), negotiations to this end were resumed. Russia insisted upon stipulations that prolonged the period of gradual evacuation to three years at least, asserted the practical control of Russia over the Chinese troops in Manchuria, put forward claims to industrial concessions, and forbade the extension of certain railway systems without Russian consent. Great Britain and Japan supported the refusal of China to accept these terms. The United States also addressed a note to Russia, February 1, protesting against the acquisition by that power of any special privileges in Manchuria, as hurtful to China and as involving a violation of treaty rights and of the principle of the "open door." Eventually, on April 8, Russia agreed to modify its demands. The treaty then concluded with China declared Manchuria to be an "integral portion of the Chinese Empire," and fixed eighteen months as the period for a gradual evacuation of the province by Russia, provided that no disturbance arose in the region and that the other powers did not interfere. So long, however, as Russian troops might remain in Manchuria, the Chinese military authorities should "come to an agreement" with those of Russia as to the number and stations of the Chinese soldiers. Russia consented, also, to restore the Shan-hai-kwan-Niu-Chwang-Sin-Min-Ting railway to Chinese management, provided that China would undertake the sole care of it, obtain the approval of Russia for changes in the railroad system, and pay a separate indemnity for the recent expenditures of Russia on its repair and maintenance. — Among the **unsettled questions arising out of the Chinese imbroglio** is that connected with the private claims for additional indemnities set up by various powers. In order to meet them it was suggested that the powers should reduce proportionately their shares of the general indemnity, and thus keep the total within the sum already fixed (see last RECORD, p. 756). To this proposition, however, Great Britain would not agree, for the reason that the private claims in question were excessive in comparison with its own. Another matter that caused some discussion was the request of the Chinese government that it be allowed to resume control over Tien-tsin. The diplomatic representatives of the European powers would not concede this without substantial guaranties of a military character to insure the preservation of public order and the security of foreigners in the province of Pe-chi-li. On similar conditions, including that of supervision by an international board, April 29, Great Britain agreed to restore to China the control of the Peking-Tien-tsin-Shan-hai-kwan railroad. — The **return of the court to Peking** took place on January 7. Before and after this event several important **edicts of reform** were issued. They deposed the heir apparent on the alleged ground of the crimes committed by his father, the banished

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Prince Tuan (*cf.* RECORD for June, 1900, p. 376, and that for December, 1900, pp. 761, 766). They encouraged "western ideas" of education by the erection of a special ministerial department, the extension of the existing field of European culture and the sending of Manchus, as well as Chinese, abroad for study. They deprecated the practice of foot-binding, and authorized the intermarriage of Manchus and Chinese. Also, in order to obviate frequent disturbances, a set of rules was provided for to restrain the interference of Catholic missionaries in litigation between converts and non-Christians.

AFRICA. — During the past six months the conduct of the **British military operations against the Boers** has had one feature of particular interest, namely, the formation of several corps of Boer volunteers for service on the British side under the name of "National Scouts." The extension of the blockhouse system, and the practice of harrying, or "driving," the Boer forces, materially reduced them in numbers and resources, though not without a few severe reverses to the British. In one of these, March 7, General Methuen, the second in command in South Africa, was wounded and captured by the Boer commander, Delarey. Owing, however, to the Boer custom of liberating prisoners he speedily obtained his release. Another method of wearing out the Boer resistance was that made apparent in an order of the military authorities, issued in December, which forbade the landing of strangers in the Cape Colony, or in Natal, except under the most stringent regulations. — On January 25, Great Britain received an **offer of mediation from the Netherlands.** As a means of facilitating negotiations for peace the Dutch government proposed that the Boer agents accredited to it should be given a safe-conduct to go to South Africa to consult with the burghers in the field on the advisability of ending the struggle. Great Britain declined to entertain the suggestion, specifically on the grounds that the Boer delegates had no authority to act, and that terms of peace could be discussed in South Africa only. At the same time the British government declared that "the quickest and most satisfactory means of arranging a settlement would be a direct communication from the leaders of the Boer forces" to the British military authorities. **Proposals for peace from the Boers** soon followed. On March 22, Messrs. Schalk-Burger, Reitz and other members of the so-called "Acting Transvaal Government" held a conference with Lord Kitchener at Pretoria, as a result of which they obtained a safe-conduct to discuss terms of peace with Mr. Steyn, General de Wet and other "irreconcilables" of the former Orange Free State. Lord Kitchener also agreed to facilitate the submission of the question to a vote of the rank and file of the burghers under arms.

LATIN AMERICA. — Little public interest has been excited by **the revolutionary movements** in the northern part of South America (see last RECORD, p. 758), except when the struggles in Colombia so far endangered the persons and property of foreigners on the isthmus of Panama

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as to require the landing of marines from foreign warships. In December an insurrection was started in Venezuela against the rule of President Castro. During the next month a riotous tumult took place in Paraguay over a question of presidential succession. Similarly, in Santo Domingo, a rebellion in May displaced the president, Juan Jiminez (*cf.* RECORD for December, 1899, p. 760), in favor of the vice president, Horatio Vasquez. — The possibility of a war between Chile and the Argentine Republic over some disputed territory was averted in December by their agreement upon a *modus vivendi*, pending the reference of the question to a British arbitrator. — In the relations between Latin-American states and the countries of Europe the **disputes of Venezuela with France** and **Germany** occupied some prominence. Upon a threat from France to impose duties on cacao, Venezuela agreed, April 29, to pay certain claims of French citizens (see last RECORD, p. 759), and to submit others to arbitration. Diplomatic relations were thereupon resumed, and a commercial treaty was concluded. Venezuela made similar terms regarding the arbitration of the German claims. In March, Spain signed treaties with most of the Latin-American states, including Santo Domingo, that provided for courts of arbitration composed of Spanish-Americans, but with a reservation of disputes over the personnel of the courts to the decision of the permanent court of arbitration at The Hague. — On December 9, the Bolivian Congress approved postal and extradition treaties with the United States. — Among the topics for discussion in **the Pan-American Congress** at Mexico were extradition, the creation of a Pan-American bank, the codification of international laws and the establishment of international copyright. The dominant theme, however, was the principle of compulsory arbitration of international differences. On this point the members of the Congress sharply divided. Chile, supported by the United States and a minority of the lesser powers, opposed the scheme, while the Argentine Republic, Mexico and the majority favored it. At length, January 17, the delegates resolved unanimously to accept in principle the several conventions of the Peace Conference at The Hague through the medium of the United States and Mexico, subject to the approval of the various home governments. The president of the latter republic, also, was requested to prepare for submission to the next session of the Congress a specific project for a convention of arbitration, based upon the sentiments of all the states concerned. At the same time the representatives of nine states made a separate agreement among themselves in favor of compulsory arbitration under certain restrictions. In this connection it may be mentioned that, in January, the presidents of the states of Central America signed a treaty providing for the adjustment of their international difficulties by a specified court of arbitration.

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